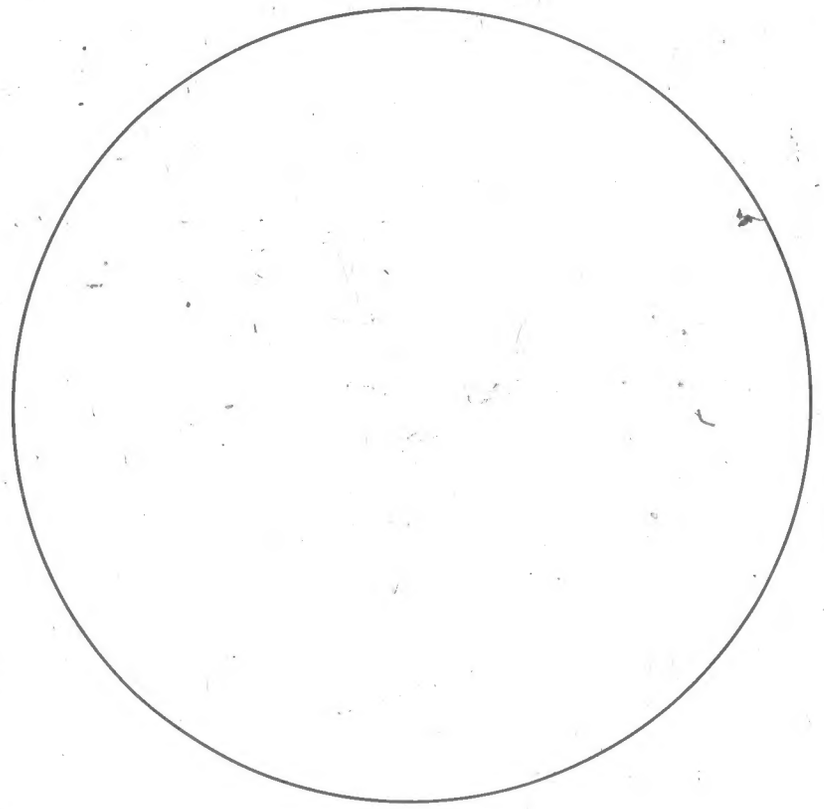
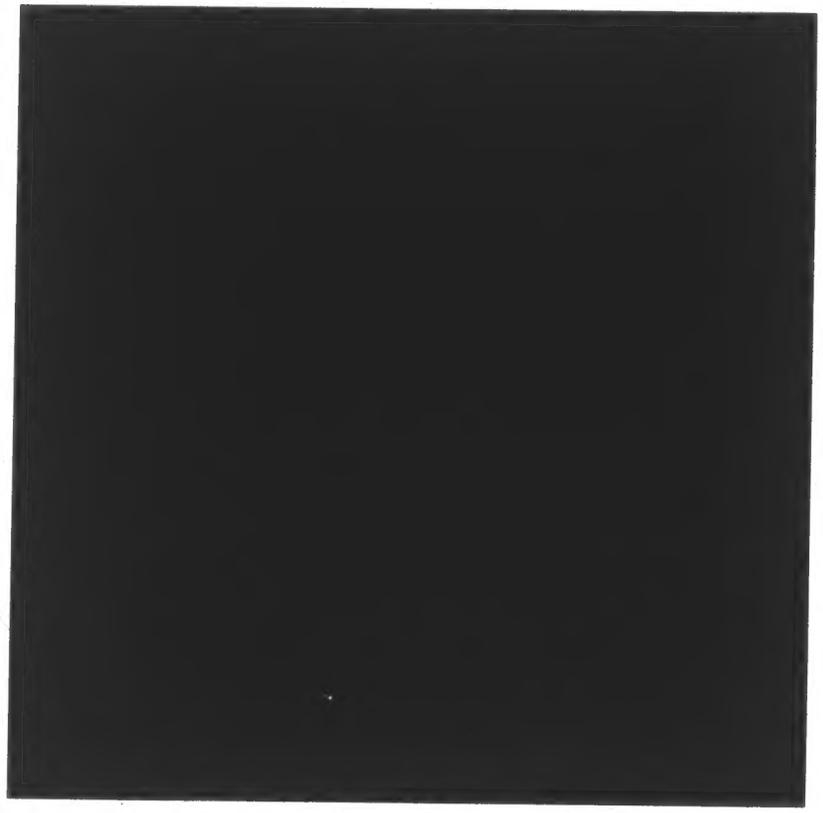
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# NATIONAL ARCHIVES MICROFILM PUBLICATIONS

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APPLICATIONS FOR ENROLLMENT OF THE

COMMISSION TO THE FIVE CIVILIZED TRIBES

1898 - 1914

ROLL 371

CHEROKEE FREEDMEN R396 - R426

THE NATIONAL ARCHIVES
NATIONAL ARCHIVES AND RECORDS SERVICE
GENERAL SERVICES ADMINISTRATION

WASHINGTON: 1983

Cher. Fr. R. 396

See Cher. Fr. R. 395. 40

Cher Fr. R. 396

File with Cherokee Freedman, D-916, Lizzie Shaffer

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., April 10th, 1902.

In the matter of the application of Burrel Daniels for the enrollment of himself and wife and one child as Cherokee Freedmen; He being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Burrle Daniels.
Q What is your age? A About 70.
Q What is your postoffice address? A Talala.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Have you been recognized as a Cherokee Freedman by the Cherokee authorities? A (No response)
Q Is your name on any of the Cherokee rolls? A Yes sir.
Q Who is it that you desire to have enrolled besides yourself?
A My wife, and children.
Q What is your wifes name? A Maranda.
Q How many children have you under twentyone? A One.
Q What is the name of this child? A Robert.
Q How old is he? A 20.
Q About how old is your wife? A About one year older than I am.
Q Is your name on the roll of 1880? A No sir, but it is on the Wallace roll and the Clifton roll and the roll the Cherokees taken for the payment.
Q Where were you at the beginning of hostilities between the United States and the Confederacy? A On Grand river west of Vinita.
Q Were you a slave? A Yes sir.
Q What was your owners name? A Robert Daniels.
Q Was he a Cherokee citizen? A Yes sir.
Q Where were you at the close of the war? A In the Choctaw Nation.
Q When did you return from the Choctaw Nation to the Cherokee Nation
A They taken a bunch of us and went to Mexico.
Q How long did you stay there? A Five or six years, in Mexico on a ranche and one year with a Jew from New York cooking.
Q After that where did you come to? A Went back to Texas and staid at San Antonio several years.
Q How long did you stay in Texas before you came to the Cherokee Nation? A I dont know how long, I was working my way back from place to place, didnt have any means of getting back and had yo work my way.
Q When did you get back to the Cherokee Nation? A I dont remember exactly the date, but I got back here when Mr. Bushyhead was chief. I got back when Cherokee Council was in session and Iapplied to the Council to have my rights reinstated.
Q What did the Cherokee Council do for you? A They made speeches and talked about it and Guss Ivy and some others took it up and it passed all the council excepting the full bloods and they all decided that as I had been run out of the jurisdiction of the United States that I was entitled to citizenship and it passed all the Council excepting the full bloods and they did not wait for them and Council adjourned and they said that they would make me a citizen anyhow as I was not in the jurisdiction of the United Stctes at the time of the treaty but had been taken out and did not get a chance to come back as the treaty said I had to.
Q Where was your wife all this time? A She was with me.
Q Where did you marry her? A In the Cherokee Nation.
Q And all during the war and during the time that you were in Texas and Mexico she was with you was she? A Yes sir.
Q Did she come back with you? A Yes sir.

Q Where was Robert born? A He was born in San Antonio.
Q How old was he when he came to the Cherokee Nation? A Dont know exactly, he was just a little bit of a kid though.
Q Was he with you all the time? A Yes sir.
Q Did he come back with you? A Yes sir.

Edgar Smith, attorney for applicent, continues examination:

Q State just how you happened to be taken to Mexico at the close of the war instead of coming back to the Cherokee Nation?
A Well it was just this way: when the war ended and we were going to come back here, General Cooper ordered Col. Bryant to turn over all his teams and he refused to do it and he then gathered up a bunch of us colored people and started south with them and we got in to Texas and there were camped on the plains and rounded up a bunch of about fifteen hundred head of cattle and went on to the Rio Grande river, and before we crossed over into Mexico he made us all get into line and wanted us to promise him that when we got into Mexico that we would pay him and some of us spoke up and said that we would not pay him as the slaves was set free did not owe their old masters anything; but he drewed it up in writing and made us all sign it and then we went into Mexico and there the Mexican government didnt have any law as old "Maxamillian" was in power then, and they had a law called the Peon law and the peoned me out to a Mexican. The Mexican governor ---------- gave $113.00for me and I worked for him on a ranch for several years until a Jew fellow who had come from New York came around there and said that his wife was used to colored people and wanted one for a cook and he said that he would give the Mexican enough money to pay me out and I could work for him and he was living in Chihauhau and I was taken there and cooked for him for a year. The Governor of Chihauhau who was named Don Terasso was the man who had me peoned and the Jew paid us out from him. They taken us to Chihauhau the place where this Jew was in business and there I cooked for him for twelve months and then General Grant sent two officers down there to relieve us. When we got there there was some trouble about us paying Col. Bryant and there was some people there who taken our part and put it into court and we staid in court a week but the Mexicans had no law there anymore as old "Maximillian" was there and in power and they said that if we had been there sooner that it would have been all right because it was jurisdictioned that no colored people owed their old masters anything, but under the law there then we was all peoned to pay that claim. Well I was there several years and then Gen. Grant sent them two officrs down there in regard to relieving us and they took us away and they went from Chihauhau to San Antonio, and we went with the soldiers and would go so many miles and then we would camp and while we were camping I would shoe so many mules for them and when they got to a certain place across the Rio Grande called ---------- they left us and I went on to San Antonio. When the troops left us I asked them how much owed them for bringing me and my family that far and the officers said that we did not owe them nothing but that they owed us something for the work they had had us do and he handed my $20.00and then I went on to San Antonio with my family.
Q And the officers brought you into Texas and turned you loose and you went on to San Antonio? A Yes sir.
Q Did you say you worked in San Antonio several years before coming on to the Cherokee Nation? A Yes sir.
Q You have stated that the reason that you did not come back to the Cherokee Nation right after the war was because you were taken to Mexico and there peoned out as you call it, and could not come back until the officers were sent there to relieve you, and that then you had no money and had to work you way to the Cherokee Nation? A Yes sir, I was taken down there by Col Bryant and peoned out to Don Ignatz Terasso the Governor of Chihauhau.

Q And that is the reason that you did not come back to the Territory
A Yes sir.
Q Were you a slave during the war, or before the war? A Yes sir, I was before the war, and during the war was a teamster and cook in the Confederate army.
Q So it was some years after the surrender that you got back to the Indian Territory? A Yes sir; I found my mother here on the river when I got back. I came back when Bushyhead was chief.

By W. W. Hastings, Cherokee Representative:

Q About what year was it that you came from Mexico to San Antonio?
A I dont know
Q You stated that you staid in San Antonio several years? A Yes sir
Q How many? A Five or six years on a ranch in Mexico.
Q Then you were in Mexico after the war for five or six years?
A Yes sir.
Q I believe that you testified that you came back to the Cherokee Nation when Mr. Bushyhead was chief? A Yes sir.
Q Then for five or six years after the war you were in Mexico and then you went to Texas and staid there several years before coming on back here? A Yes sir I worked in San Antonio several years before I came back here.

By Edgar Smith:

Q State more fully at what time you were taken to Mexico and by whom that was done. A When we got there in Mexico he (Q Who) A Col. Bryan.) was camped about a mile from the city of Chihauhau and was selling off the colored people to pay what he said we owed him. He was little girls go for $30.00 each and when I saw it I walked away and went into the city and he had my arrested and there were some people there who taken out part and took it into court and we staid in court about a week, and at that time old "Maximillian" and his French was in power and the Mexican Government had no laws and they peoned us all out to pay that claim and the Governor of the State of Chihauhau said that he would pay $113.00 for me and he paid it to him. (Q Who paid it to who? A The Mexican governor to Col. Bryan.) Col. Bryant said that me and my family owed him $500.00 and the Governor of Chihauhau paid him $113.00 and we worked on his ranch.
Q Did you owe him anything? A No a cent.
Q But you were sold to the Mexican Governor for $113.00 and worked for him on his reach? A Yes sir.
Q How long did you work on that ranch? A Five or six years.
Q You say Gen Grant took you out? A Yes sir sent two officers to take us out.
Q How much money did you have when you left Mexico? A Didnt have any.
Q Why didnt you come back to the Indian Territory right away after you left Mexico? A Well I got to San Antonio and had to work there to get on as I did not have any money and had a large family.

By Commissioner Needles:

Q How long did you stay in Texas? A Dont know how long, worked in San Antonio several years.

The Kerns-Clifton roll of the citizens of the Cherokee Nation examined and the applicants identified thereon as follows:
Page 181, No. 4455, Murrell Daniels, Creek Nation.
Page 181, No. 4457, Robert Daniels, Creek Nation.

By Com'r Needles: The name of Murrel Daniels is not found on the authenticated roll of 1880 or the census roll of 1896, but his name is on the Kerns-Clifton pay roll of 1894; the name of his wife Maranda is not found on any of the rolls

in the possession of the Commission. The name of his son, Robert is found on the Kane-Clifton roll of 1894. They are all duly identified, but from the facts states in the testimony his application for enrollment as a Cherokee Freedman and that of his wife and son, will be refused and they will be rejected.

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings had in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Signed, Chas. von Weise,

Subscribed and sworn to before me this the 10th of April, 1901, at Fort Gibson, I.T.

Signed, T. B. Needles,
Commissioner.

QQQQQQQQQQQQQQQQQQQQQQQQQQQQQQQQ

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he copied the foregoing, and that the same is a true and correct copy from the original.

Bruce C. Jones

Sworn to and subscribed before me this the 20th of August, 1901.

Commissioner.

To be filed with case of Lizzie Shafer, C. F. D. #915.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 25, 1901.

In the matter of the application of Andrew Daniels for the enrollment of himself and nine children as CherokeeFreedmen.

APPEARANCES:
Mellette & Smith Attorneys for applicant;
W. W. Hastings, of counsel for Cherokee Nation.

ANDREW DANIELS, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Andrew Daniels.
Q How old are you? A I don't know, about 37 I guess.
Q What is your post office address? A Ramona.
Q Indian Territory? A Yes, sir.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Myself and nine children.
Q Are you married? A Yes, sir.
Q What is your wife's name? A Dora Daniels.
Q Is she a citizen? A No, sir.
Q Is your name on any of the rolls of the CherokeeNation? A Yes, sir.
Q Is it on the roll of 1880? A I think it is, year sir.
Q What is your father's name? A Burrell Daniels.
Q Is he living? A Yes, sir.
Q What is your mother's name? A Miranda Daniels.
Q Is she living? A Yes, sir.
Q Have you got nine children under age and not married? A Yes,sir
Q Give me the name of your oldest child? A Willie.
Q How old is he? A I guess.I guess he is about 18.
Q The next one? A Lewis.
Q How old is Lewis? A I just can't tell you exactly, there is about a years difference in between them.
Q Then Lewis must be 17? A Yes, sir.
Q The name of the next one? A Susie.
Q Susie then would be 16, would she? A No, sir, there was one between Lewis and Willie, and she is dead.
Q That would make Lewis then 16? A Yes, sir.
Q Then Susie would be 15, fi he comes next to Lewis? A Yes,sir, but that is a little too old for her I think.
Q How old is she? A I think she is about 13 or 14.
Q Well, what is the name of the next 9ne? A Thomas.
Q How old is Thomas? A He must be about ten I guess.
Q The next one? A Burley.
Q How old is he, A He must be, I don't knowexactly just about howolld, about 6 or 7 I think.
Q What is the name of the next one? A Essie though is older than Burley.
Q How old is she? A She must be about eight or nine, and then Burley comes next.
Q Who is after Burley? A Mi nnie.
Q How old is Minnie? A She must be about 5 I t uess.
Q Well, the next one? A Miranda.
Q How old is Miranda? A She is a little over 2 years old I think.
Q What is the next one? A Ruth.
Q How old is Ruth? A She isn't quite a year old yet, I am not on the 1880 roll, I am on the other two rolls.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicants not identified thereon.
The 1896 census roll of CherokeeFreedmen examined and the applicants not identified thereon.

The Kern-Clifton roll examined and the applicants identified thereon as follows:
Andrew Daniels on page 181, No. 4446, Cooweescoowee district
Willie Daniels on page 181, No. 4447, Cooweescoowee district
Lewis Daniels on page 181, No. 4448, Cooweescoowee district as Louis Daniels;
Susie Daniels on page 181, No. 4450, Cooweescoowee district
Thomas Daniels on page 181, No. 4449, Cooweescoowee district as Tom Daniels;
Essie Daniels on page 181, No. 4451, Cooweescoowee district
Burley Daniels not on Kern-Clifton roll.
Minnie Daniels on page 181, No. 4452, Cooweescoowee district

Q What is the matter with Burley; Burley is older than Minnie?
A I don't think he is on the roll though.
Q Why not? A He didn't get on there, they didn't nenroll him.
Q Have you got any witnesses here? A My daddy.
Q Has your daddy been enrolled? A Yes, sir.

BURRELL DANIELS, being duly sworn by Commissioner Needles, testified as follows: Mr. Smith:
Q State your name. A My name is Burrell Daniels.
Q How old are you? A I expect I am nearly 70.
Q Where do you live? A Out west of Talala on Caney River.
Q How long have you been living in the Cherokee Nation? A I have lived in the Cherokee Nation all my life time until I went to Mexico; I have been back, though, ever since Mr. Bushyhead was Chief.
Q Ever since Mr. Bushyhead was chief? A Yes, sir.
Q Do you know this app cant here, Andy Daniels, here first on the stand? A He is my son.
Q How old is he? A I don't know exactly, he was born just about a year before the war ended.
Q Where was he born? A He was born down here close to Doaksville in the Choctaw Nation.
Q Were you a slave then? A Yes, sir.
Q Who did you belong to? A I belonged to Robert Daniel, first belonged to Miss Susie Taylor, living in Tahlequah, and she gave me to her daughter.
Q Who was her daughter? A Annie Daniels, died in Vinita here time of the Lightning Creek payment.
Q Who was your owner at the time the war commenced? A She wax my owner; when the war commenced why she had me with one of her sisters that lives in Tahlequah now, Mrs. Thompson, exchanged me for a boy named Will, I belonged to Mrs. Thompson a while after the war commenced.
Q Well Burrell, about what time, about how long had you been in the Choctaw Nation when this boy Andrew was born A Well, we had been down there I reckon not quite a year, but I was with the army, backwards and forwards, in the Nation here and then out.
Q He was born in the Choctaw Nation a year after you left the Cherokee Nation? A Yes, sir.
Q Who took you out of the Cherokee Nation? A They put is with Mr. Bryant's outifit.
Q How many children did you have at the time you were in the Choctaw Nation at the time you were in the Choctaw Nation when this boy Andrew was born? A I had Lewis, Abram, Sarah and Tom.
Q Have a wife there then? A Yes, sir.
Q What was her name? A Miranda Daniels.
Q Was she a slave too? A She was the slave of Zeke Daniels.
Q Was he a Cherokee citizen? A Yes, sir, my old Boss' brother.
Q Was Joel Bryant a Cherokee? A He was a white man but he had a Cherokee wife.
Q Well now from the Choctaw Nation, how did you get into Mexico?
A Mr. Bryant carried a number of us out there, a drove of us.
Q How big a drive did he have? A I reckon he had, must have had

about forty or fifty of us, little and big.
Q Was this boy taken down to Mexico at the time you were? A Yes, sir.
Q What other members of your family, if any, were taken down there?
A Taken my oldest son Lewis, and a boy named Abram, a girl, out of the Choctaw Nation named Sarah, taken Lewis and Abram and this boy was a baby.
Q Well, how long did you stay in Mexico? A I must have stayed there, I was working on a Mexican Ranch about five or six years till they relieved me down there, I stayed on the ranch yonder about five years, and come a merchant from Santa Fe named Mr. Amberg
Q You were peoned down there in Mexico were you? A Yes, sir.
Q How old was this boy Andrew when you returned to the Cherokee Nation? A I reckon he was about five or six years when I returned back to San Antonio, six or seven.
Q Then how long did it take you to make your way back to the Cherokee Nation? after you came to San Antornio? A I was several years on my way, I worked a year or two in San Antonio and then I came up to Fayette County and stayed there.
Q Do you know what year it was when you came back to the Cherokee Nation? A No, sir, guess I could find out at Tahlequah when I came back; when I came back Council was up there and I worked on Arkansas River till Council commenced. again.
Q That was when Mr. Bushyhead was chief? A Yes, sir, and when council commenced again I went and reported at the Genral Council.
Q About how old when was this boy when you ca e back to the Cherokee Nation at the time Bushyhead was chief? A I don't know, I canIt tell you exactly how old he was, he was a young man I reckon when he came back here.
Q well, can you tell us about how many years s ince you came back to the Cherokee Nation, can you count back that way and tell? A It must have been something over twenty years ago.
Q And you say the boy was born after the war commenced?
A No, sir, he was born just before the war ended.
Q You took him down to the Choctaw Nation? A Yes, sir.
Q Hewas born down there before the war ended? A Yes, sir, just a year before it ended.
Q And you came back and the boy came back about twenty years ago?
A Yes, sr, I think it mst have been twenty years ago, I can find out y going to Tahlequah.
Q What other children did you bring back with you twenty years ago, or whatever time it was? A I brought Robert and Lizzie and one named Mack.
Q What is Lizzie's name now? A She is married, she is named Liz ie Haines, and one of my daughters died before I got back, and left two granddhildren, and they went by the name of Mary Eato and Lizzie Eaton, but one goes by the name of Mary Hill and Lizzie Shafer.
Q They were your children, members of your family, when you brought them back here at the same time you brought Andy? A Yes, sir, when I brought them little children back here they were just little kids, they have growed up here since they came back.
Q Which ones do you mean by those little childrenK A These here girls that are married now.
Mr. Hastings: Where was Andy married A He was married just down here the other side of Hempster, near Wimer, Texas.
Q His wife was State raised? A Yes, sir.
Q Where was his first child born? A Born here in the Nation.
Q Willie? A es, sir.
Q Willie was born in the Nation? A Yes, sir, born down here on the Arkansas river at Mrs. Nivens.
Q Had Mr. Bushyhead been re-elected then, been elected the second time as chief when you came? A I think he was, Ithink he was I will not be certain.

Q Abo t how long did you stay in Mexico, about how many years? A I must have staye e in Mexico about six or seven, I workee on a ranch about five or six years.
Q Then after leaving Mexico you came back to Texas? A After leaveing Mexico, the Government fetched us back to Texas.
Q You remained in Texas from that time until you came up here? A Yes, sir, just one place and another on t he way as I was coming.
Q But you remained in Texas the rest of your time? A Until I came up here; I traveled as far as I could.
Q That was between six and seven or eight or nine years you remained in Texas after leaving Mexico, before you reached the Territory, a fter the war? A Yes, sir, I stayed in Tex as in places , I traveled around and then stopped maybe a year or two.

Commissioner: How old was Andy when y9u brought him back here? A Andy was I reckon about 14 ot 16 years old, he married when he was nothing but a boy.
Q When you brought him back to the Cherokee Nation? A Yes, sir, he married in Texas and he was nothing but a boy.
Q He must have been over 14 years old? A The people down there were talking about having him took up for that marriage, he was nothing but a boy.
Q Married his present wife? A Yes, sir.
Q How long did he stay in Texas after he married? A ye married along in the summer or spring and he came here in the fall.
Q Been here ever w ince? 'A Yes, si .
Q You think he wasn;t over 16 or 18 years old? A I don't know as he was 18 years old, he was a boy because I know they were trying to get the one that married him took up for marrying him.
Q How old is he now? Q I don't know, sir, exactly how old he is; his age is on them rools.
Q Who was Andrew's mother? A My wife, what used to beloned to the zsame set of people I belonged to.
Q Did she come back with you? A Yes, sir, she is at home now.
Q You and hercome back together? A Yes, sir.
Q Andrew's mother was a slave? A Yes, sir, slave of Zeke Daniels.
Q Was she with you all the time you were emigrating around through Texas and Mexico? A Yes, sir, she was the slave of Zeke Daniels and Before the war ended she got to be the slave of Mrs. Thompson, at Tahlequh now.
Q Andrew is your oldest child? A No, sir, I have one named Tom.
Q Older than Andrew? A Yes, sir.
Q Where was Tom bofn? A Tom was born here in the Cherokee Nation on Grand river east of Vinita, before the war.
Q Is he living? A Yes, sir, he is here in the Nation.

Mr. Smith: Did I ask you, Burrell, when you testified in your own case about why you didn't come back to the Cherokee Nation soone after they left you at San Antonio? A Yes, sir.

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Andrew Daniels, recalled, testified: Commissioner:
Q Are all these children for whom you apply living at this time? A Yes, sir.
Q Were all of them born in the Cherokee Nation? A No, not all of them.
Q Where was Willie born? A He was born in the Cherokee Nation.
Q Where was Lewis born? A I think I was working over in the Creek Nation then.
Q Did you live in the Creek Nation? A A while I did.
Q I thought you said you had lived in the Cherokee Nation continuously all the time? A Well, I have been.
Q ell you couldn't have been living in the Cherokee Nation and the Creek Nation at the same time? A A good while ago I used to live there.
Q How long did you live in the Creek Nation? A Several years, working around there.
Q Where was Susie born? A She was born in the Creek Nation.

Q Where was Thomas born? A I think he was born in Canadian if I am not mistaken, Cherokee Nation.
Q Canadian district? A Yes, sir.
Q Where waw Burley born? A I disremember now exactly where he was born.
Q In the Cherokee Nation or the Creek Nation? A I think I was living in the Creek Nation at that time.
Q Where was Essie born? A She was born in the Cherokee Nation; I disremember, I am not sure of it though.
Q Minnie, your five years old child? A Canadian I think.
Q Where was Miranda? A Born here on Caney.
Q In the Cherokee Nation? A Yes, sir.
Q And Ruth? A Yes, sir.
Q Well you appear to have lived in the Creek Nation a good deal.
A A while when I first came to the country.
Q What part of the country? A Right on the line about Muskogee, I worked through there.
Q Worked over about Muskogee? A Yes, sir.
Q These children, that is where they were born, over about Muskogee? A Some of them were.
Q Where were the others that were born in the Creek Nation born?
A Kinder along backwards and forwars? A Yes, sir, worked around in there a while.
Q They are all the children of Dora, your wife? A Yes, sir.
Q What proof have you got of your marriage to Dora? A I haven't got any unless I send off after it.
Q Married in the State of Texas? A Yes, sir.
Q Get a license there? A Yes, sir, at Lafrange, County.
Commissioner: Well, you will have to send a certified copy of your license from the record there.
Mr. Hastings: How long did you live there after you married?
A I married along the the spring and came out that fall.
Q You know what fall you got here? A No, sir, not exactly.
Q What is your best judgment about when you got here?
A I never paid the strictest attention to it, I can't tell you just what fall it was.
Q You made a crop there after you married, came back in the fall after that? A Yes, sir.
Commissioner. You know how old you were when you came?
A No, sir, I don't.
Q Did you ever vote in the State of Texas? A No, sir.
Q Ever vote in the Cherokee Nation? A Yes, sir.
Q How long after you came back before you ever voted in the Cherokee Nation? A It wasn't very long, I voted several times in Canadian and I voted one or twice up here.

Commissioner: Andrew Daniels applies for the enrollment of himself and nine children, as enumerated in the testimony. He cannot be identified upon the authenticated roll of 1890 or the census roll of 1896, but he and his children, with the exception of Burley and Miranda and Ruth, are identified upon the Kern-Clifton pay-roll. He avers that he is the son of Burrell Daniels, who is listed for enrollment upon rejected card No: R-40, and the testimony taken in the case of the said Burrell Daniels will be made part of the record in the case at bar, and a copy thereof filed herewith. He makes satisfactory proof as to his residence, and avers that he was married to his wife Dora in the state of Texas. She is a full citizen. He has no proof of marriage. It will be necessary for him to file with this Commission satisfactory proof of his marriage, or a certified copy of the records from the State of Texas. The testimony shows that his father did not return to the Cherokee Nation until about twenty years ago, and that he brought with him the applicant, his child, at that time.

The testimony shows that the said Andrew was born in the Choctaw Nation during the war, the applicant's father, Burrell at that time having been taken out of the Cherokee Nation. Because of the fact that the applicat was a minor, born after his fat her and mother were taken out of the Cherokee Nation, and before they lost their rights as Cherokee Freedmen, and the weight of the testimony showing that he was a minor when he returned, the applicant, Andrew Daniels, and his children as enumerated herein, will be listed upon a doubtful card, awaiting further consideration by the Commission. He will be notified by mail of the action of the Commission in the premises. The only doubtful question in the mind of the Commission is as to the rights that the said Andrew Daniels has by reason of his being a minor at the time that he was taken from the Indian Territory, and a minor when he returned, the evidence showing that his father and mother were slaves in the Cherokee Nation before the war.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Bruce C. Jones

Sworn to and subscribed before me this the 8th day of July, 1901.

(Signed) C. R. Breckinridge,
Commissioner.

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Supplemental, Cherokee Freedman D-861.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I/T., June 26, 1901.

In the matterof the application of Andrew Daniels et al. for enrollment as Cherokee Freedmen.

Supplemental testimony.

Appearances:
Mellette & Smith, attorneys for applicant;
W. W. Hastings, of Counsel for Cherokee Nation.

BURRELL DANIELS, being duly sworn and examned by Commissioner Needles, testified as follows:

Q What is your name? A Burrell Daniels.
Q Are you the father of Andrew Daniels, who applied yesterday to be listed for enrolment? A Yes, sir.
Q You were a slave, were you? A Yes, sir.
Q Who did you belong to? A I belonged to Bob Daniels.
Q Were you taken out of the Cherokee Nation during the war?
A I was taken out after the war ended.
Q Who by? A By Joel Bryant.
Q What right had he to take you; was he your owner? A When the war was coming on we were put with him to keep out of the way of the northern people and he carried us down here in the Choctaw Nation near Beaksville, with all the families.
Q Whose family? A All th families, their families and colored families; and when the war ended, before he turned the darkies loose he took a drove of them and went to Mexico.
Q Took you among them? A Yes, sir.
Q Where from? A South from the Choctaw Nation.

Q Your family was in the Choctaw Nation at that time, were you? A Yes, sir.
Q Was there where Andrew was born? A Andrew was born in the Choctaw Nation near z Sampson Fulsom's:
Q That near Doaksville? A Yes, s r.
Q Did he take Andrew? A Yes, sir, he was just a baby.
Q Take your wife? A Yes, sir, all the whole family.
Q How old was Andrew then? A Andrew I think was something over a year old, pretty near a year old; they made a crop there and stayed there all one winter and one season.
Q How did your wife and Andrew happen to be in the Choctaw Nation? A My wife and Andrew, he had the whole family, my family and half a dozen others.
Q How did he happen to be there? A He took us down there.
Q Who? A Mr. Bryant.
Q Took you from the Cherokee Nation into the Choctaw Nation?
Q Yes, sir, first to Fort Smith and from Fort Smith to Van Buren and then to the Choctaw Nation.
Q There is where Andrew was born? A He stayed there one winter and made a crop that fall, made a crop, and along in coming December aI suppose he moved us all over to Texas.
Q Was that after the war? A Yes, sir, everybody was going home, peace was declared.
Q Didn't you know you were free then? A Yes, sir, he had his batallion outifit with him.
Q Was he a soldier? A He had the soldiers with him.
Q Was Bryant a Confederate or a federal? A He was a confederate.
Q Was he an officer? A He was a colonel.
Q And he took you along when he took his soldiers back; when he took his soldiers he took you folks? A Yes, sir.
Q Did you try to b et away from him? A No, sir, he didn't ask us anything, just told us we had to go with him and said we would come back when everything got quiet.
Q I understand Andrew was born in the Cherokee Nation? A No, sir. He was born in the Choctaw Nation.
Q After this man took you down there? A Yes, sir.
Q And took your wife there? A Yes, sir.
Mr. Smith: At the time Andrew was born and the time you speak of being in the Choctaw Nation and going over into Texas to cut wheat, the war wasn't ended then was it? A No, sir, it wasn't ended then.
Q That was while the war was going on? A Yes, sir; when the war e nded why he moved us from Mr. Sampson Fulsom's to a place below Doaksville, beetween Doaksville and old Mr? Jones' farm.
Commissioner: You stayed at Sampson Fulsom's until the war ended? A Yes, s r.
Q He took you there before the w ar ended? A Yes, sir.
Q He had the families all there, and there is where Andrew was born? A Yes, sir.
Q Then Andrew was taken on down into Texas? A Yes, carried down into Texas, went down to Waco, from Waco to Austin, and met some people and they said the Yankee army was in Austin, and he took is then across the plains.
Q And there Andrew staye d yntil he was married? A Yes, sir, he took us to Mexico.
Q Took Andrew to Mexico? A Yes, sir, and he married the same year I was working out way back.
Q He married in Texas? A Yes, sir.
Q And after he married he came back to the Nation? A Yes, sir.
Mr. Hastings: You stayed six or seven years in Mexico?
A Yes, sir.
Q That was six years or seven years after the war? A Yes, sir.
Q Then you came back here you saw after Mr. Bushyhead was elected chief the second time; that was after '83? A I came back from

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Mexico to San Antonio and worked there a while and I moved from there and came to Fayette County and worked there a while.

Mr. Hastings: Mr. Smith, can we agree that Mr. Bushyhead was elected chief the second time beginning the first Monday in November, 1883, that is a historical fact?

Mr. Smith: Yes, I will agree to that.

Mr. Hastings: You lived five or six years in Mexico?

A Yes, sir.

Q And the rest of the time you were working your way back here?

A Yes, sir.

Commissioner: What did you stay so long in Mexico for?

A He taken us to Mexico and peoned us.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Bruce C. Jones.

Sworn to and subscribed before me this the 9th of July, 1901.

(Signed) T. B. Needles,
Commissioner.

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J. O. Rosson, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly made the foregoing copy and that same is a true and complete copy of the original transcript of the testimony and proceedings in said case.

J. O. Rosson

Subscribed and sworn to before me this August 28th, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
NOWATA, I. T. JUNE 28th, 1901.

In the matter of the application of Lizzie Shafer for the enrollment of herself as a Cherokee Freedman; said Shafer being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Messers. Mellette & Smith, for Applicant.
Mr. W. W. Hastings, for Cherokee Nation.

Q What is your name? A Lizzie Shaffer
Q How old are you? I A I don't know sir.
Q Are you 20? A I s- cl-se on to it
Q What is your post offic- A Talala
Q What district do you live in? A Cooweescoowee.
Q Who do you want to enroll besides yourself? A Just myself.
Q Is your name on the roll of 1880? A No,sir.
Q Is it on any of the rolls of the Cherokee Nation? A Clifton roll and Wallace roll.
Q What is your father's name? A My father's name was John Newton.
Q What was your mother's name? A Nancy Daniels.
Q Do you claim citizenship through your father or mother?
A My mother.

BY MR. SMITH:

Q Who was Nancy's father? A Burl.
Q Burl Daniels your grand father? A Yes,sir.
Q Where did he live? A On Caney.
Q In the Cherokee Nation? A Yes,sir.
Q How long has he lived there? A I don't know.
Q How long have you lived in the Cherokee Nation?
A I have been living in the Cherokee Nation ever since I have been big enough to know myself.

BY MR. HASTINGS:

Q Where were you born? A I was born in Texas.
Q Is your mother living? A No,sir.
Q Where did she die? A She died in Texas.

BURL DANIELS, being duly sworn by Commissioner T. B. Needles, testified as follows: BY MR SMITH :

Q State your name? A Burl Daniels
Q Where do you live? A I live on Caney river.
Q Are you the Burl Daniels who applied for enrollment before this Commission at Fort Gibson? A Yes,sir.
Q Do you know this applicant, Lizzie Shaffer? A Yes,sir, grandfather.
Q Who is her mother? A Her mother died before she got here
Q Her name was Nancy? A Yes,sir.
Q Was she your daughter? A Yes,sir.
Q When did this girl come to the Nation, when you came?
A She came when I came; she was a girl about that high( indicating)
Q How old would you say? A About three or four years old.

BY MR. HASTINGS:

Q Her mother died in Texas? A Yes,sir.
Q Did she marry in Texas? A Yes,sir.
Q How many children did she have older than this one?
A Just had two, this one and that one.
Q How much older is her older sister than she, the applicant.?
A She is, I reckon, about two years older.
Q Was she married in Texas you say? A She was married right here on Caney river.
Q I mean her mother? A Her mother married in Texas.

Q Both of these children born in Texas? A Yes,sir.
Q Their mother died in Texas? A Yes,sir.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 181, #4459, Lizzie Newton, residence "Creek Nation".
The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon/, page 109, # 2321, Lizzie Newton, " Creek Nation."

BY COM'R NEEDLES:
Q How long have you lived in the Creek Nation? A I don't know, sir, how long I lived there.
Q Is your husband a creek citizen? A No,sir.
Q What is he, a state man? A No,sir, he is a Freedman.
Q Well, don't you know how long since you been living in the Creek Nation? A No,sir.
Q Well, about how long? A well, I don't know, sir.
Q Twenty years? A No,sirr
Q Well, then how long? A I don't know how long I lived there.
BY MR. HASTINGS:
Q You live in the Creek Nation now don't you? A No,sir.
Q How long have you been up here? A A out five years
Q Since the last time? A We was living here at the time of the last payment.

BURL DANIELS, recalled:
Q Burl, when did this girl come up here? A I moved them up here.
Q When. A I moved her up here from Scoonover.
Q Scoonover is on the line? A Yes, sir.
Q What direction from Scoonover? A South of Scoonover.
Q You give the residence in before Creek Nation? A They was not living in the Creek Nation.
BY MR. SMITH:
Q Do you know how she happened to be put down as being living in the Creek Nation? A I don't know how they come to put that down, she was living right there at Scoonover.
Q Were they living in the Creek or Cherokee Nation?
A It was in the Cherokee Nation, Canadian District.
BY MR. HASTINGS:
Q Did you ever live in the Creek Nation since you come back here?
A Yes,sir, lived in the Creek Nation and Cherokee Nation both.
Q Scoonover lives in the Creek Nation don't he? A No,sir.
Q Isn't he a Creek citizen? A No,sir, he is a Cherokee and lives in the Cherokee Nation.

COM'R NEEDLES: Lizzie Shafer applies for enrollment of herself, the She avers that she is a daughter of Nancy Daniels.

Q What relationm is Andy Daniels to you? A He is my uncle.
She avers that she is a grandchild of Burl Daniels and a niece of Andy Daniels. She avers that she is now married to one Henry Shafer. She is identified upon the Kern-Clifton roll and Wallace roll; but cannot be identified upon the authenticated roll of 1880 or census roll of 1896.
By request of the attorneys the testimony taken in the matter of the applications of Burl Daniels on Rejected card #40, and Andy Daniels on doubtful card #241, will be made a part of the record in the case at bar and copies of the testimony in said cases will be filed with the testimony now taken for the applicant. Said Lizzie Shafer will now be listed for enrollment as a Cherokee Freedman upon a doubtful card.

BURL DANIELS, recalled: BY MR. HASTINGS:
Q What was Lizzie Shafer's mother's maiden name? A Her mother was named Nancy.
Q How old was she when the war came up? A She was about three or four years old when the war come up may be five.

Lizzie Shafer,--3.

Q What year did she die? A I do not know, she died about, we think the year before I started out here and I sent the old lady back and got the children.
Q How long before that was she married before she died?
A I don't know, she had been married, I don't know exactly how long.
Q Well, about how long was she married? A This girl was about six years mkke and the other one was Nelson.
Q About five years? A Yes,sir.

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J. C. Rosson, being first duly sworn , states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

( Signed) J. C. Rosson

Subscribed and sworn to before me this 15th day of July 1904

( Signed) T. B. Needles
Commissioner.

Lucy M. Bowman being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes she made the above and foregoing copy, and that the same is a full true and correct copy of the original transcript.

Lucy M Bowman

Subscribed and sworn to before me this 9th day of July, 1904

My Commission Expires January 19th 1908.

Seal

Wm C Martin Jr.
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 18, 1901.

In the matter of the application of Burrell Daniels et al. for enrollment as Cherokee Freedmen.

Supplemental testimony on behalf of applicant.

Appearances:
Mellette & Smith, attorneys for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

GEORGE O. BUTLER, appearing before the Commission and being duly sworn and examined, testified as follows:

Mr. Mellette: First state your name and residence? A George O. Butler, Tahlequah, Cherokee Nation.

Q What is your age, Mr. Butler? A 39.

Q Are you a Cherokee Indian by blood, a recognized citizen of the Cherokee Nation? A Yes, sir, Cherokee by blood, recognized.

Q Do you know the applicant, Burrell Daniels? A Yes, sir.

Q How long have you known him? A I have known him for about 25 years, or 30; well 25 years I guess, since 1882, that is when he first came up there, second year after Bushyhead was inaugurated.

Mr. Hastings: The second time? A Yes, second time of his election.

Q I want to correct you; he was inaugurated in 1883, and the next year would be 1884? A Well 1884 then.

Mr. Mellette: Where did you see Burrell Daniels first? A I saw him in Tahlequah.

Q About what year was that? A That was in 1884, in November, during the council.

Q What was he doing there at that time? A He came there to be readmitted to citizenship, to see about his rights he said.

Q Do you know if he presented an application to council for readmission? A Yes, sir, I wrote it out, had the member from Tahlequah to introduce it in the Senate.

Mr. Hastings: There comes in a matter of record: I am going to object to further examination along that line.

Commission: I will have to note the objection and let it go on.

Mr. Hastings: I don't think Mr. Mellette will insist on going on.

Mr. Mellette: I think the fact of his filing his application is competent; I don't care to go on.

Q Did you know Burrell Daniels before he left theIndian Territory at the beginning of the war? A No, sir, I didn't know him, I was too young then.

Commission: This testimony will be filed in the following cases: ~~R-40~~, D-861, ~~D-916~~, D-917, and D-941.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 20th of September, 1901.

M D Green
Notary Public.

To be filed with F. D. 916.Lizzie Shafer.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, I. T. May 17, 1902.

In the matter of the application of Burrell Daniels for the enrollment of himself as a Cherokee Freedman.

SUPPLEMENTAL TO R-40

APPEARANCES:
Mellette, Smith & Cravens, for applicant.
W. W. Hastings for Cherokee Nation.

COMMISSION: There is offered in evidence by the attorney for the applicant a certificate which purports to be a true and correct copy of so much of the Wallace Roll made by J. W. Wallace as shows the enrollment of ~~J. W.~~ Andrew Daniels and family as Cherokee Freedmen and as beneficiaries of the per capita fund of seventy five thousand dollars appropriated by the act of Congress approved October 19, 1888. Also certified copy of that part of the J. W. Wallace roll as shows the enrollment of Burrell Daniels and family as Cherokee Freedmen and beneficiaries of the per capita fund of seventy-five thousand dollars appropriated by the act of Congress approved October 19, 1888.

MR. CRAVENS: Applicant offers to file the affidavits of Andrew Daniels taken on the 22nd day of November, 1899, and the affidavit of Burrell Daniels, taken on the 4th day of October, 1889, and the supporting affidavits of L. D. Daniels, Luster Foreman, and Ben Grimmett, taken before John W. Wallace on the 4th day of October, 1889, being copies of affidavits on file in the office of the Secretary of the Interior as shown by the certificates attached.

MR. HASTINGS: The Cherokee Nation objects to the filing of these affidavits because it is against the rules of the Commission to file affidavits and because Burrell Daniels and Andrew Daniels are alive and have testified before the Commission in their cases heretofore, and because L. D. Daniels and Ben Grimmett are alive and have testified before the Commission in numerous cases, and they can be gotten so as to be brought before the Commission and there examined and cross examined so as to ascertain their knowledge and means of knowledge.

COMMISSION: The objections of the Cherokee Nation will be sustained.

COMMISSION: These proceedings will be filed with and made a part of the record in the case of Andrew Daniels et al, D-861,Lizzie Shafer, D-916, Mary Hill et al, D-917, Lizzie Haynes, D-941, Mack Daniels, D-1089, Thomas Daniels, D-1100, Burrell H. Daniels, D-1101, and Burrell Daniels, R-40, the same being the case at bar. It appears from the records of the Commission that all of these applicants are represented by Mellette, Smith & Cravens.

Arthur G. Croninger, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full the testimony and proceedings in the above case,, and that the same is atrue and complete transcript of his stenographic notes thereof.

(Signed) Arthur G. Croninger.

Subscribed and sworn to before me this 6th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

I, the undersigned, being duly sworn, -do- as stenographer to the Commission to the Five Civilized Tribes do hereby swear that I made the above aniforegoing copy; and that the same is atrue and complete copy of the original transcript.

Frances S. Dietzfelbinger

Subscribed and sworn to before me this 8th day of August, 1902.

Bruce E. Jones
Notary Public.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 1320 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Linnie Shaffer, D 916;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases (excepting the Mariah Hayden case) that counsel for the applicant be allowed within thirty days to file any of the proof or any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation certainly most strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

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I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E C Bagwell

Subscribed and sworn to before me this July 29, 1902.

Notary Public.

Freed. D 6600

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 21, 1900.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman.

Applicant appears by Mellette P. Smith, Cherokee Nation, by W. W. Hastings.

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs. The Cherokee Nation, No. 17809 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Lizzie Shaffer, D 814;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the rights of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed to within thirty days to file any of the proof or any part of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation certainly most strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case re-opened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

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I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
CHEROKEE ENROLLMENT DIVISION.
MUSKOGEE, I. T., JUNE 8, 1906.

Cherokee Freedman R-40 et al

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of Burrell Daniels et al., as Cherokee freedmen, consolidating the applications of

Burrell Daniels et al.---------- C F R- 40
Andrew Daniels et al.---- -------- C F D-861--R-395.
Lizzie Shaffer et al.---------- C F D-916--R-396.
Mary Hill et al.---------- C F D-917--R-394.
Lizzie Haynes et al.---------- C F D-941--R-393
Mack Daniels et al.---------- C F D-1089-R-392.
Thomas Daniels et al. ---------- C F D-1100-R-391.
Burrell H. Daniels et al.----------C F D-1101-R390.

APPEARANCES:
For the Applicants: Blue & Bulger.
For the Cherokee Nation: W. W. Hastings and J. G. Davenport.

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It appears from the records of the Commission that on January 18, 1904, the Commission rendered its decision in the matter of the above applications denying the applications. That on January 19, 1904, the record in the matter of these applica ions was forwarded to the Department and the action of the Commission was approved by the Secretary of the Interior on June 24, 1904. It further appears that on May 15, 1905, the decision of the Department affirming the decision of the Commission was remanded and the record and the papers returned with a request that a rehearing be had in the matter. Now on this day pursuant to notice the applicants herein appear both in person and by their attorneys, Blue & Bulger of Vinita, I. T., the Cherokee Nation represented by W. W. Hastings, one of the attorneys for the Nation.

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The following testimony was introduced on behalf of the Cherokee Nation:

R. W. LINDSEY, being first duly sworn, testified as follows:

BY THE COMMISSION:
Q What is your name? A R. W. Lindsey.
Q What is your post office? A Chetoau, Indian Territory.
Q
BY MR. HASTINGS:
Q What is your age? A 73.
Q What is your post office? A Chetoau.
Q Did you live in the Cherokee Nation before the war? A Yes sir.
Q Were you married when the war came up? A Yes sir.

Q To whom were you married? A Mariah Bryant.
Q Who was her father? A Joel M. Bryant.
Q Was he commonly known as Col. Bryant? A Yes sir.
Q Did you know the applicant, Burrell Daniels, before or during the war? A I knew him during the war.
Q I mean the applicant here? A Yes sir, I knew him as good as anybody.
Q Where did you first know him? A Well I have seen him the first to know him was at out six miles east of Van Buren in Arkansas.
Q When was that? A About October, 1862.
Q In whose family was he at that time? A Col. Bryant, his property at that time.
Q Did he own him at that time? A Yes sir.
Q Did Burrell Daniels have a wife then? A Yes sir.
Q Do you remember what her name was? A Yes sir, Miranda.
Q Did they have any children? A Yes sir.
Q Do you remember how many? A Lets see, I can recollect the names of Lewis, Nancy, and Abe, there were about five to the best of my knowledge, but they have all died except one or two.
Q To whom did Miranda and the members of Burrell's family belong? A Col. J. M. Bryant.
Q That was in October, 1862? A Yes sir.
Q Where did Col. Bryant's family go during the war? A They went from that place for a little while close to Dansville, Ark. for a few months, and then went south to Red River ten miles east of Doaksville, Choctaw Nation, one year, and then removed from there to a point 17 miles southwest of Doaksville in the Choctaw Nation.
Q Where were they at the close of the war? A They were at this place 17 miles southwest of Doaksville in the Choctaw Nation.
Q Did they subsequently remove to Texas? A Yes sir.
Q Just go ahead and make a statement? A I was in the army and was travelling under orders from Shreveport to report to General Cooper, commanding the division of the Indian Territory, C. S. A. and when I got to Paris I heard from a party there that Col. Bryant's family had removed across the Red River, and I went there and met them there and Burrell Daniels was there with them.
Q When was that? A In the early part of May, 1865.
Q Where did Col. Bryant and where did you go from there? A I don't recollect the distance but it must be 40 or 50 miles up Red River to Warren where Col. Brynat joined us there.
Q Where did you go from Warren, Texas? A We started from there and went to Chihuahua, Mexico.
Q Was Burrell Daniels with Col. Bryant's family at Warren, Texas?
A Yes sir.
Q Now tell of the circumstances of Col. Bryant going to Mexico and of his taking this family with him? A He went to Mexico and this family of Burrell's and another family of negroes, 5 or 6 in number, he taken them along with him, they all went together.
Q Did he force these people to go with him?

Mr. Blue: I don't think that is competent, I think that is a conclusion rather than a statement of facts. I think he ought to state the facts and not undertake to give conclusions.

A No sir, he didn't force them.

Q Now tell about it? A As I understood it was entirely amicable, I didn't hear of any objection at all, Burrell and his wife, Miranda were very confidential servants you may say, it was their matters and they went along freely as I expect he ever did anything in his life, as I understand they were to go with them to Mexico.

Q What was Col. Bryant intention of going to Mexico at that time?
A Well it was just after the war and things were so that he had to go some place, as a good many called it to get out of the way of the Yankees.

Q Were these parties compelled to go? A No sir, they stopped at a place I think 210 miles northeast of the Rio Grande, where we stopped and liberated the slaves and rested for several days, and Mr. Bryant made a contract with Burrell and I think maybe his wife, that when they got over into Mexico they were to work and pay the transportation, and I think maybe the amount was fixed, I am not certain about that, and then when we got to the City of ~~Chihuahua~~ Chihuahua, and after awhile we moved down three miles east of Chihuahua, and we had been there a few weeks when Burrell taken up his family and skipped off into the City from the camps where we camped at, and Mr. Bryant come there and found him in the city, and he brought suit against him before the the court there, and he got judgment, I don't recollect the amount of the judgment though.

Q What did he bring suit for? A On account of the contract for services, he brought suit there for the money or for the services he agreed to pay him.

Q For what money? A For transportation under this contract entered into at Fort Stockton. He got the judgment and of course that would compel the services or the money, I don't know what the amohtn of the money was, but Governor Terasso, Lewis Terasso paid the money and then, under the laws there, of course, Daniels became a subject to him for the amount of money to satisfy that judgment.

Q When this contract that was entered into was to pay for the transportation of Burrell Daniels and the members of his family from where they had previously started over into Mexico? A Yes sir that was it.

Q And you say Bryant got judgment for some amount but don't know the exact amount? A No sir not the exact ambunt.

Q Burrell Daniels has testified the amount was $113.00, do you remember about that? A I don't recollect the amount, I have heard them speak about it.

Q You say Lewis Terraso paid the judgment? A Yes sir, paid the judgment.

Q And that ended Burrell's connection with the family? A Yes sir

Q Was that in 1865? A Yes sir, that was '65, about September, 1865.

Q About how long did you stay there after that? A About two years.

Q You and did Col. Bryant stay there two years after that? A Yes sir we came back together.

Q Did you ever see Burrell Daniels here after that time? A No sir not until 1868, I saw him in Tahlequah, I saw his oldest son frequently.

Q When did you say you saw him here? A In 1868.

Q You don't know just when that was, when he returned? A No sir.

BY MR. BLUE:

Q You say you were a son-in-law of Col. Joel Bryant? A Yes sir.

Q Was Bryant a Colonel in the Confederate Army? A Yes sir.
Q Was he in command of a confederate force in 1865? A Up until about May in 1865 I think everything went to pieces about that time.
Q Was he ordered to turn in? A I wasn't with him, I did what I was ordered to do and I met his family and mine and we went up above. I don't know anything about that. The equipage he had was perhaps his own, men those times furnished according to his own skillet.
Q Were you with Bryant in 1865? A No sir just met him at Warren, Texas.
Q In what year? A '65.
Q And who was with him at that time? A When I first met him there were two young men, one by the name of Lem Smith and Joe Bennett.
Q I mean what companies he had? A No companies, those two men were the only ones. Afterwards two other parties came in that belonged to his command. Those were all he had, no one but those two when he came down from Washita of his command, didn't have any command then, they had disbanded.
Q What was Bryant doing down in that part of the country at that time? A He came from Washita to meet his family and fixed up to go to Mexico.
Q What was his object in going to Mexico? A I said to get away from the Yankees.
Q Was it customary fo the Yankees to make it unsafe for the ex-confederates? A I don't know, we didn't know at that time.
Q You were going away from the Yankees and there wasn't any there?
Q That is my idea, I couldn't tell any other idea.
Q Then you went from there to the City of Chihuahua? A Yes sir.
Q And was this Burrell Daniels and his family the only colored people with you? A No sir, there was another family about 5 or 6 I think.
Q were they trying to get away from the Yankees too? A I couldn't tell what their motives were. They were old family slaves except two.
Q They were slaves of Joel Bryant then? A Yes sir, and you don't know or anybody else how close old slaves would be to us during those days.
Q You say Burrell Daniels was with Joel Bryant in 1862 in Arkansas?
A Yes sir, that was when I first met them, in August, 1862, I think Joel Bryant bought him from Thompson out here just a little ways east of here, I only heard of them speaking of the transaction.
Q You don't know it? A No sir, only heard it but I know they were up that way.
Q Did you know Johnson Thompson? A Yes sir.
Q He was a Cherokee? A Yes sir.
Q Do you know from whom Johnson had bought Burrells? A From Robert Daniels.
Q What part of the Territory did Johnson live in in 1862? A Johnson had lived on his place, it was about ten miles little south east of where Vinita is now, and Robert Daniels lived on the Texas road just north of him.
Q Where did Johnson Thompson go then? A He had gone to the Choctaw Nation, I could see him around and I think he was a commissary perhaps in the first Cherokee regiment. I frequently saw him on the trail sometimes we had a good night sleeps and sometimes we would be running.

Q Was that first Cherokee Regiment a Confederate force? A Yes sir that was the one, there was a first Cherokee regiment and there was a second Cherokee regiment.
Q What was the number of Col. Bryant's regiment? A I don't recollect, I wasn't with his regiment, I was with ~~his~~ a different command all together, that has been a long time ago and I have forgotten it.
Q Did Johnson Thompson at this time have any other slaves except Burrell Daniels? A Yes sir considerable.
Q Did he move those with him? A I don't know they were with the family, his family went to Red River, I expect they went there in 1862.
Q A about the same time that Daniels went to the Choctaw Nation?
A About the same time he moved down he was moving when they made the deal out here at a little spring close to Frozen Lake.
Q Do you know why they went to the Choctaw Nation? A Yes sir.
Q Why? A The Yankees were in it a ain.
Q Do you know that Burrell Daniels was sold by Johnson Thompson to Col. Bryant? A Well I know just only from hearesay, the old man Bryant said he had bought him from Thompson, and I think Thompson had brough him from Daniels
Q Was it not customary in those times for a salve owner to put his salves with some army officer for protection? A Not then, no sir, not until thing s---we held the ground, it was all our way then.
Q What time of the year was that? A That was during the summer of 1862. I said it was about August when they made this trade.
Q In the latter part of August you made this trade, didn't the northern forces come down her and wasn't John Ross and family north with them? A They had previously to that time, but they got away rapidly, we were master of all we surveyed then, but I say we didn't hold it long.
Q If you were monarch of all your surveys here why did you go south? A We took a good stand, and made a good run.
Q Are you a citizen of the Cherokee Nation? A Yes sir.
Q Are you enrolled as such? A Yes sir.
Q How long have you lived in the Cherokee Nation? A You count from the 2nd day of November, 1859 up to this day.
Q From what place did you come to the Cherokee Nation? A From Kansas City, Missouri.
Q Are you a Cherokee by blood? A No sir, by marriage.
Q Then you were here or hearabouts all the time of the war until in 1865 when you started to old Mexico? A Yes sir.
Q And you were with General Cooper, if I understand you? A Yes sir.
Q What regiment? A Second Cherokee regiment two years, and I was with the artillery the last of the war.
Q When Col. Bryant started from this place was it his intention of going to old Mexico? A Yes sir that was it.
Q How many people were they with Col. Bryant at the time he started to Mexico? A Besides his own family, I don't think there was over, at that time, ten more men. There were several more than members of his family, I would say a dozen at the outside.
Q Did he have some young boys? A He had only one son.
Q Was there any others? A One boy started with him and then way do n about Waco another boy come in.
Q How did you travel from going from this place in Texas to Mexico? A We travelled in wagons.

Q Some on horse back, I suppose? A Some on horse back, a few.
Q How did you subsist in going through that country? A We had beef cattle, some milk cows they had that the family was using I think andtraded for.
Q About what size herd? A Not very large but I would say 30 or 40 head perhaps, it wasn't a big herd, small.
Q And you took them along to subsist on? A Yes sir.
Q Was that stok of the family or was it property of a party for all? A No sir they were Bryant's property, he footed the bill.
Q While in travelling from Warren, Texas, did you go by an old travelled route or otherwise? A We travelled the usual travelled route.
Q Did you find any Yankees in the way out there? A Not a single Yankee.
Q From Waco did you take the usually travelled route? A Yes sir, until we got to San Sabin, and then it was the other route, we went to Belton, and we passed Yeupusa and Sansaba, and then we took a little by way to Fort Stockton.
Q After you heard that the Yankees were in that vicinity you didn't travel the route usually used? A No sir the Yankees were not in that vicinity, they were way down to Houston.
Q Now this old Fort Stockton, how near was that from the divide?
A It was 210 miles to the best of my recollection.
Q Your recollection is it was 210 miles from Fort Stockton? A Yes sir that is my best recollection.
Q That was the last stopping place xxx so to speak until you got down to Presidio? A It was 122 miles to Presidio.
Q What I wish to know, from the time you left Fort Stockton until you got down in the vicinity of Presidio did you fine any other stopping place? A No sir that was the first stopping place.
Q Was that a settled country? A No settlement at all.
Q Was it an arid place during those days? A Yes sir.
Q You came through to this Cotton Wood Spring and there you stopped for a time? A Yes sir.
Q About how long before you went on? A Perhaps it was six days.
Q Then you crossed into old Mexico? A Yes sir.
Q After you got into old Mexico you remained there how long?
A Two years.
Q Now isn't it a fact that Col. Bryant tookd judgment against othe colored people that was with him? A No sir only Burrell and his family.
Q Do you know anything about how Burrell Daniels got out of Mexico? A No sir didn't see him any more after he left the camps there.
Q You spoke of seeing his oldest son? A Yes sir.
Q What was really a peonage son too? A Yessir.
Q As a matter of fact there was no such thing as slavery there as it was in the United States? A No sir it was a contract you see.
Q Simply sell into bondage until the debt was extinguished? A
A Yes sir that was of it, if necessary I can briefly state it, that if you make a contract with a man he could work it out. You know what peon mean, it means just servitude of labor, it was under a contract for a debt.
Q As I understand it under that contract they were sold into slavery until the debt was extinguished, if it wasn't paid? A No sir, I beg your pardon, you could compel him to make that servitude or get the money and pay you.

Q Now at the time you got there into Mexico, as you have stated, what government was in power then, the Mexican government or the Government of Maximillian? A Maximillian.
Q During the time you remained there what government was in power?
A Most all the time Maximillian, about the time we left there the Maximillian government was overthrown, just a little while before we left.
Q Was the government changed back to the Mexican control before you left? A Yes sir.
Q Did either you or Col. Bryant while you were in old Mexico participate in the government there in any way? A No sir.
Q You and he were there simply as citizens and trying to live there?
A Yes sir.
Q Did Col. Bryant return back to the United States after that?
A Yes sir.
Q And you did also? A Yes sir.
Q Have you ever held any official position in the Cherokee Nation?
A I have been a member of the National Senate in the Cherokee Nation.
Q Have you held any other official position? A No sir.
Q Have you been a member of the National Council of the Cherokee Nation more than once? A Only once.
Q When was that? A It was in 1887 and '88.
Q Now I will ask you do you remember when Bushyhead was elected Chief? A The first time was in '79 and the second time in '83.
Q Then he was Chief of the first election how long? A 4 years.
Q Reaching from what time? A '79 to '83.
Q How long was he chief the second time? A 4 years.
Q Do you remember when he was industed in office in 1883? A It was supposed to be about the first Monday in November, '83.
Q Then the term of that office would run 4 years? A Yes sir.
Q Was he chief of the Cherokee Nation any other terms than those two? A No sir, that was all.

BY MR. HASTINGS:
Q You and Col. Bryant then went to Mexico in 1865 with the intention of living there at that time? A Yes sir, that was the intention.
Q And you started from near Warren, Texas? A Yes sir.
Q Was Mr. Baugh, his other son-in-law with you? A Yes sir.
Q That is the other witness out here? A Yes sir.
Q And you say Burrell Daniels and his family went with you voluntarily? A Yes sir.
Q Was he compelled to go by Col. Bryant? A No sir.
Q Another family of slaves went with you at the same time? A Yes sir.
Q Were they compelled to go with you? A No sir, and he proposed to bring them back at the same time. They stayed with him the length of time working for themselves, and when he came back he told them he would bring them back with him.
Q They had a signed contract with him to pay for their transportation did they? A Yes sir.
Q After they got over to Chihuahua Burrell refused to comply with the terms of the contract? A Yes sir, that was about it, he left Mr. Bryant's services.
Q Left owing for this transportation? A Yes sir.
Q And as I understand you Mr. Bryant, in the proper courts down there, brought suit for this transportation? A Yes sir.
Q And he got judgment? A Yes sir.
Q And this Governor of Chihuahua, Lewis Terazas, paid off the judgment under Mexican law? A Yes sir.

Q And Col. Bryant had no more to do with it? A No sir.
Q Whatever was done by Col. Bryant was done there in accordance with the Mexican law and the action of the courts? A Yes sir.
Q Col. Bryant never sold him into slavery or peonage, only got judgment against him? A That was it, under the law he could have held him until her got it.

BY MR. BLUE:
Q Youstarted from this point in Texas you have stated as I recollect it, that it was in May, 1865, when you started to Mexico, what day in May? A I couldn't recollect, I think it was in the early part of May, perhaps the middle.
Q Now as a matter of fact when you started these people were slaves of Col. Bryant? A Yes sir, so considered.
Q Were they slaves when you went into Mexico? A No sir, he had liberated them at Fort Stockton.
Q What was Burrell Daniels and his family doing during the time they were travelling, going through there? A Burrell was driving one of the teams, and his wife was cooking for Col. Bryant's family.
Q As a matter of fact Burrell and his wife were working for Col. Bryant? A Yes sir.
Q And did work for him up to Fort Stockton when this contract was made? A Yes sir.
Q Now did Col. Bryant at that time pay Daniels and his wife anything for their services? A I would say not, my impression is that he didn't pay them anything.
Q This proceeding out there in Mexico by Col. Bryant by which this judgment was obtained, was it under the rule Maximillian?
A Yes sir.
Q Did you or Col. Bryant, either one become citizens of Mexico?
A No sir.
Q Did Col. Bryant take out any papers there? A No sir.

BY MR. HASTINGS:
Q Were you there on July 19, 1866? A Yes sir.
Q Was Col. Bryant there? A Yes sir, I was there until '67.
Q What time did you leave there in 1867? A In the latter part of July, '67.
Q Did Col. Bryant also leave at that time? A Yes sir, we left together.
Q I believe you stated that Col. Bryant didn't force either of these families to start with you from Warren to go to Mexico?
A No sir he didn't.

BY MR. BLUE:
Q You also stated that Burrell Daniels and his family were slaves at that time? A Yes sir.

BY THE COMMISSION:
Q Is Col. Bryant dead? A Yes sir.
Q When did he die? A About 1899 or 1900, I couldn't state which.
Q Only about 5 years ago? A Yes sir, just about 5 years ago.
Q Where did he die? A Up there at Chateau.
Q How far is Stockton from Tahlequah? A It is a long ways.
Q What is your best judgment? A I would say about 800 miles.
Q Up until you reached Fort Stockton Burrell Daniels and his family were slaves? A Yes sir.
Q How many of these slaves that were liberated at that time returned to the Cherokee nation at once, all of the slaves you had with you, did you take them all to Mexico? A About all, yes sir, I don't believe but two of them came back when we did.

Q Is it a fact that the slaves that you had at Warren were all with you still at Fort Stockton and they were still with you when you went into Mexico? A Yes sir.
Q And they were with you in Mexico? A Yes sir.
Q The party wasn't broken up at all? A Not until we made a stop in Mexico.
Q Do you know how far Warren, Texas, is from Tahlequah? A It is a little more than 800 miles.
Q How far is Fort Stockton from Chihuahua? A It is about 400 miles.
Q How far is San Antonio from Tahlequah? A It is about 600 miles.

W I T N E S S E X C U S E D.

J. H. BAUGH, being first duly sworn, testified as follows:

BY THE COMMISSION:
Q What is your name? A J. H. Baugh.
Q What is your post office address at present? A Muskogee just at present.
Q How old are you Mr. Baugh? A I am 80 years old.

BY MR. HASTINGS:
Q When were you first married? A In 1884.
Q To whom were you married? A To Charlotte Bryant, Bryant's eldest daughter.
Q Was she the eldest daughter of Col. J. M. Bryant? A Yes sir.
Q You are a brother-in-law of Mr. Lindsey who just left the stand?
A Yes sir.
Q Were you living near Col. Bryant when the war came up? A Well yes I was, Bryant lived on the east side of Grand River and I was most of my time, ---Bryant lived on the west side of Grand River I should have said, and the most of my time I was over in the hills near Spring Creek running some cow cattle.
Q Do you know Burrell Mayfield? A I used to know a negro by that name, I wouldn't recognize him now.
Q Did he have a wife named Miranda? A Yes Sir he had a wife, I don't recollect what her name was.
Q When did you first get know the se colored people? A Well my recollection is pretty bad about the dates or anything of that kind.
Q Was it during the war or before the war? A It was during the war.
Q Where did you know them? A I knew them on Brag bayou I think first, or Useless Creek.
Q Where was that, in what State? A In Arkansas.
Q Did they belong to Col. Bryant then? A They did.
Q Where did you know them, if you knew them, at all just after the war? A Out on Red River in Fannin County near Bonham in Texas.
Q Where were they when the war closed, were they there when the war closed? A Who, them niggers.
Q Yes? A Yes sir.
Q Where was Col. Bryant's family? A They were on the east side of Red River at what is called Horse Prairie not very far from where Simpson Folsom used to live in the Choctaw Nation. They went over into Texas then and stayed in up in Denton after the surrender.

Q Did they go to Mexico? A They did.
Q Do you know whether this family of Burrell Daniels and his family went with them or not? A She did.
Q Did he? A Yes.
Q Where did they start from the go to Mexico? A They started from out there not far, it is on the east side of Red River.
Q Do you remember the town of Warren, Texas, how far is it from it? A I don't recollect any such town as Warren.
Q Your memory is bad about these names and dates? A Yes sir very bad.
Q You were along with Mr. Lindsay when you started were you not?
A Yes sir.
Q Did Burrell Daniels and his family go with Col. Bryant and your family? A Yes sir, they did.
Q State whether or not that he went with him voluntarily or how he went? A Well there was no complication as I know of, if there was any I don't know it, of course there was a crowd of us all went together and I don't know of them compelling any one to go.
Q About what time of the year did you start to go to Mexico?
A It must have been the latter part of May or the first of June, I am not certain, I think it must have been the latter part of May or the fist of June that we started to Mexico.
Q Was that in 1865? A '65, yes sir.
Q After you got to Mexico what became of Burrell? A He stayed around there with Bryant's family awhile then Burrell, he skipped out and went into Chihuahua, we lived 6 or 7 miles from Chihuahua and they went up there.
Q Who went up there? A Burrell and his family.
Q How long had they been there with Col. Bryant when Burrell Daniels left and went up to Chihuahua? A Couldn't tell you.
Q Well was it a short time or considerable time? A I suppose it was a month or two, I don't know exactly.
Q What did Col. Bryant do about it? A He sued them, he claimed that he had a contract, I don't know anything about that part of it, they had agreed to pay him for their transportation across the plains and when they runed off, they were to work for this transportation, work for Bryant. When they runed off then he entered suit against them and got judgment and Burrell didn't have the money to pay it and he got Governor Terasso to pay the amount, whatever it was, and agreed to work for Terrasc until he paid the debt.
Q You say Burrell got Terasso to pay the debt? A I suppose he did, I don't suppose he would have paid it unless he asked him to do it.
Q Did Col. Bryant have anything more to do with Burrell Daniels after that? A Not that I know of.
Q Were you a witness to that contract that Daniels was to pay him for his transportation? A No sir.
Q You only heard that there was a contract entered into? A Yes sir
Q Do you know of Col. Bryant getting judgment against him in the Mexican court? A Well I was not a personal witness to it but that was my understanding.
Q You were there, a member of the family at the time? A I was living in Chihuahua at the time and Mr. Bryant and his family lived about 4 or 5 miles east of Chihuahua.
Q How long did you remain down there in Mexico? A I stayed there nearly two years, I lived there in until in June, 1877.
Q 1867 you mean? A '67, it was June '67.

Q Did you all leave Texas to go to Mexico with the intention of living there at first? A That was our intention, then matters were not settled here and we didn't know how things would go in this country so we went to Mexico, and I always wanted to go to Mexico anyway, so it just suited me.
Q Did you ever see Burrell after Col. Bryant got judgment against him and after he went from under his control? A I couldn't answer that question because I can't recollect what, I may have seen him, but I don't recollect.

BY MR. BLUE:
Q How old are you Mr. Paugh? A 80.
Q How long have you resided in the Cherokee Nation? A 52 years.
Q From what place did you come to the Cherokee Nation? A I came from Texas here.
Q Have you lived here continuously ever since you came, except what time you were in Mexico? A Yes sir, I have been in the Cherokee Nation most of the time and I have been here all of the time except once in a while I would go down to Texas and stay a month or so.
Q Were you in the Confederate services? A Yes sir.
Q In what Confederate regiment? A In Stand Waitie's regiment.
Q Did you at any time serve in Col. Bryant's regiment? A No sir.
Q Was Col. Bryant a Cherokee? A No sir only had a Cherokee family.
Q He was a Cherokee by adoption then? A I suppose you would call it that. I don't think they are adopted any more.
Q He had been recognized as a Cherokee citizen? A Yes sir.
Q And you married his daughter? A Yes sir.
Q His wife was a Cherokee woman? A Yes sir.
Q Have you been recognized as a Cherokee citizen and enrolled as such? A I have been enrolled as a Cherokee citizen.
Q Then you have been treated and regarded as a Cherokee citizen ever since your marriage to Col. Bryant's daughter? A Yes sir.
Q Where did you join Col. Bryant's party that went to Mexico after the war? A Somewhere out there west of Bonham, I think.
Q That was in Texas? A Yes sir.
Q Was it at a town or village or city or some camp? A He just camped out.
Q Now when you joined that party, who if any one, joined with you?
A Well now then here, I will state the case this way; there was Bryant and his family and Bryant had a lot of men along with him, soldiers that was in the war that was going to Mexico with him and we all camped over there on the other side of the river together. I don't know as I joined the company any more than any one else, I just went along with my family.
Q At the time you started, this party of you people for Mexico, about how many were they of you? A I suppose there was about 50.
Q Well of that 50 people how many of them were exconfederate soldiers? A I don't know, there was I suppose 15 or 20 perhaps that went along that was part of the way out there and they branched off and some of them I think went up toward El Paso.
Q Where did they branch off from you at? A they branched off at, my recollection is very bad, - well now I think it was about Pot Stockton somewhere along there, that some of them left us.
Q About how many of them left there, if you remember? A I don't remember.
Q How did you travel from this place in Texas over to Mexico?
A We went in wagons and teams.
Q Any of you on horse back? A There was a good many of these boys that were with the family went along horse back.

Q Were you a slave holder in those days? A No sir, my wife had a little negro girl.
Q Was she along? A She was along.
Q What became of her? A She died in Mexico, I think those Mexicans poisoned her.
Q Was she sold into slavery in Mexico? A No sir.
Q Did she live with you after you got to Mexico? A Yes sir.
Q Did she live with you up until the time of her death? A Yes sir.
Q How many slaves did Col. Bryant have with him of his own slaves from the time you started to old Mexico? A I don't know exactly, how many I couldn't tell you. They took outthere--there was one family that belonged to his mother--let's see-- there was 3 or 4 of them maybe, I don't recollect exactly how many, I can't remember.
Q Did he have Burrell Daniels and his family along with him?
A Yes sir.
Q Burrell a that time was his slave? A They were when they started from here until the surrender come, there was no slaves after that.
Q What did he do about the matter when he got over to Fort Stockton? A Of course the understanding was that Mexico was a free state, and that this fellow Burrell and his family agreed to pay his transportation to Mexico and he was to work out the money.
Q That is for carrying him over to Mexico? A Yes sir.
Q When he started Burrell was his slave? A If there was any slaves after the surrender.
Q Burrell understood he was his slave at that time? A Yes sir.
Q And he held Burrell and his family in slavery until he got out to Fort Stockton? A I couldn't say.
Q Did he out at Fort Stockton make some kind of a release of them and brought them over there? A I couldn't testify to that, I wasn't present at the time it was done but that was my understanding.
Q At that time he agreed to free them and he was to pay him for carrying them across there? A Yes sir.
Q And that contract was he was to work out that bill over in Mexico when they got there? A Yes sir.
Q And after they got there it seems that Burrell went up to Chihuahua and refused to carry that contract out? A Yes sir.
Q And then he proceeded under the Mexican law against Burrell there? A Yes sir.
Q What government was in control of Mexico at that time? A The Liberals.
Q Was it a government of the Mexican people at that time or Maximillian? A It was the Mexican people.
Q Do you remember what year that was? A That was in '66 I think, I was there in '66 and '67, and I think it was in '66.
Q Do you remember when you and Col. Bryant 's party passed into old Mexico? A Very well.
Q What was that date ? A I don't recollect the date but I recollect the time.
Q You say you started in May or June of 1866 from Texas? A Yes sir
Q How long were you on the way? A Well we must have been maybe 5 or 6 weeks, I don't know for certain, I can't recollect.
Q Then you probably crossed over into Mexico in July or August of 1866? A Yes sir.
Q Do you remember of stopping at some springs up near the line?
A At Leon Holes.

Q I will ask if when you started from Stockton what place in Mexico did you intend to go? A Our calculation was to go to the State of ~~Texas~~ Sonora, then we aimed to go to Chihuahua, after that we give out going any further.
Q Don you remember at stopping at some springs about 20 or 30 miles of the line either Cotton Wood Springs, or some such springs as you stopped? A It was no place, only a hollow between two hills.
Q You camped there didn't you? A We camped there a little while.
Q Now as a matter of fact during the time that you were in Mexico up until just before you left there Maximillian was the emperor of Mexico was he not? A Well I don't know that he was, he was not recognized in Chihuahua at all.
Q He had the capital city and was in control of the government?
A Yes he left the capital at Chihuahua was in control of the Tradoras, that was a traitor to the Mexican government.
Q At any rate he was an adherent of Maximillian? A Yes sir.
Q And the City of Mexico and the government was in the hands of Maximillian? A The City of Mexico might have been, but Chihuahua where we were was in the hands of the French.
Q How long did you stay there all together? A A little less than two years.
Q When you returned from Mexico, who, if any one, came back with you? A No one came back with me but my family, my wife and children.
Q When you came from Mexico to what place did you return? A I stopped up on Grand River.
Q I mean did you return to the Cherokee Nation? A Yes sir, to Cowoosdoowee District.
Q So far as the contract that was made between Col. Bryant and Burrell Daniels andhis family you know nothing only by heresay?
A Nothing at all.
Q When did you first see Burrell Daniels that you remember? A I couldn't remember that.
Q Where did you fist see him? A Gouldn't remember that.
Q Do you know that Col. Bryant's family was down in the Choctaw nation during part of the war? A I do.
Q Were they in Arkansas too? A Yes sir, they were at Evansville.
Q Do you know whether they lived in Texas during the war? A Not only when they went over there to go through.
Q During the time you were on this trip from Texas to Mexico, what did Burrell Daniels and his family do on the trip? A I think Burrell maybe drove a team.
Q Wasn't he a blacksmith? A If he was, I don't know it.
Q What did his wife do on that trip? A I don't know unless she helped the women cook.
Q As a matter of fact Burrell Daniels and his wife worked for Col. Bryant all the way over there? A I guess they did.
Q You also had a herd of cattle that you subsisted on? A Yes sir we carried some beef cattle along with us.
Q And some cows? A Beef cattle principally.
Q About how many did you have with you? A About 50 or 60.
Q Did you have any oxen with you? A Yes sir, I had an ox team.
Q State if you know why Col. Bryant's family during the war sometimes lived in the Choctaw country? A Just cause they couldn't live up here.
Q Why couldn't they live up here? A Cause they were southern people.
Q And then they lived down in Arkansas and the Choctaw country to get out of the way of the Yankees during the war time? A That is what they did.

Q You say you don't remember when you first saw Burrell? A No sir.
Q Do you remember anything about his belonging to a man by the name of Daniels at the commencement of the war? A No sir, I knew some Daniels.
Q Did you ever know anything about his belonging to a man by the name of Johnson Thompson? A I knew Johnson Thompson.
Q When when you first saw Him he was with Col. Bryant? A Yes sir.
Q Did you durin that time see Col. Bryant in the Choctaw Nation at that time? A Bryant was there part of the time.
Q Do you know whether or not he left the Choctaw Nation to go to Texas at the time he started to Mexico? A He left the Choctaw Nation to go to Texas.
Q Did he go from the Choctaw Nation over into Texas before he started to Mexico? A That was my understanding.
Q Were you with him in the Choctaw country? A I was then about 3 or 400 xxxx yards of where his family lived .
Q Then you saw him in the Choctaw country before he crossed over into Texas? A Yes sir.
Q About how many slaves did Col. Bryant have in his party when he started to Mexico? A I don't know, I suppose 15 or 20, I couldn't be any ways correct, I never paid any attention to it.
Q There was something like 15 or 20 then? A I think so.
Q Now outside of Burrell Daniels family what family of the rest of thise slaves did you know? A Some of them went to Mexico.
Q Are you sure about that? A I don't know.
Q As a matter of fact didn't your party including these slaves after they got down there to the line, didn't you all first cross over into old Mexico, slaves and all? A They all went with us. Q Now you say the slave girl that belonged to your wife died in old Mexico? A Yes sir.
Q Now outside of Burrell Daniels family what became of the rest that were carried into old Mexico? A Some of them came back and some of them stayed.
Q Did you ever see any of those that came back? A I have.
Q Who were they? A One was a negro woman named Nettie that belonged to Mrs. Buffington.
Q What was the name of the other? A That came back, I don't know of any others. Lets see, I believe Bettie is the only one that I recollect of seeing to come back.
Q Where is she now if you know? A Up here about Choteau.
Q Is she living still? A She was a year or two ago.
Q Do you know about how far is it from Chihuahua to Tahlequah?
A No sir I coulan't tell you.
Q About how far was it from Chihuahua to San Antonio? A I think it is about 7 or 800 miles, maybe 900, let me see, it is from Chihuahua to Fort Davis is about 200 miles, and from Fort Davis to San Antonio I think is 500 miles. Well it is about 7 or 800 miles from Chihuahua to San Antonio.
Q Now can you give me an estimate of the distance from San Antonio to Tahlequah? A I would have to get a railroad map and figure it up.
Q When you reached Fort Stockton with this party about how far were you from the Cherokee Nation? A I would have to have a pencil and map to tell that.
Q About how many miles do you think it was? A That is too hard for me.
Q Now when you travelled over that country from this point in Texas from which you started to Mexico by the route you took, was it a settled country or wild and desolate country? A It was settled until after you left the Colorado River, out west

here at the head of the Concho River there was no settlement there until you reached the Rio Grande. It is considered 90 miles from the head of Concho River to the Pecos, that distance is a desert, no water.

Q When you had to carry water over there? A Yes sir.

Q Then that country was a wild and part of it an arid country where you crossed over? A Yes sir.

Q How did you subsist while you travelled over there? A We subsisted on meat and bread and water.

Q Did you carry the bread with you? A Of course we carried flour and we had the beef and salt.

Q I understood you say that just prior to Mr. Bryant's starting to Mexico you and he lived near each other in the Choctaw country? A Yes sir, my family and me and Bryant's family we lived close together awhile.

Q How long did you live there before you went over into Texas? and started for old Mexico? A I expect about 12 months maybe.

Q Did all those negroes that he had with him there in the Choctaw nation, did he take with him to Mexico? A I couldn't say.

Q You don't know of any of the negroes that were with him there, that he didn't take, do you? A No sir.

BY MR. HASTINGS:

Q Now how many negroes did he get into Mexico with that you remember, your best judgment, about that? A I expect about 10 or 12.

Q Was there more than one family besides Burrell Daniels's family?

A Yes there is there was some other niggers, I don't know as any of them had any family they were mostly women.

Q Did they belong to Col. Bryant or some other members of the party? A Yes they belonged to Bryant and some, there was one that belonged to Lindsey's wife, and one belonged to Mrs. Buffington, a girl, and one that belonged to my wife.

Q Now I will ask about those slaves that Col. Bryant took over there, did he have any other besides the Burrell Daniels family and one other family? A Lets see, I think there was two other girls, maybe they called one Rainy and another girl,-- I forgot her name.

Q All of Col. Bryant's original slaves did not go to Mexico did they? A No sir I guess not.

Q And they all didn't start with you to Mexico? A No sir.

Q You were not present when that contract was signed with Burrell Daniels to pay back his transportation to Col. Bryant? A No sir I was not present.

Q But you understand one was signed? A I couldn't recollect knowing about the contract, only it was my understanding that there was a contract of that kind.

Q And he sued him and got judgment upon this contract? A Yes sir.

Q Now you were asked about your citizenship and that of Col. Bryant awhile ago and you laughed, why was that, is your citizenship a proposition that is in question, the intermarried whites of this country, there rights is in the Courts isn't it?

A Yes sir I guess so.

Q Well I am asking you, Col. Blue was asking you about whether you were a citizen and whether Col. Bryant was a citizen? A

A What I was laughing about he asked me if Col. Bryant was an adopted citizen, well I don't know whether he had ever been adopted or not, he was married into the Cherokee Nation.

Q He was a white man himself? A Yes sir, he married a Cherokee woman but whether or not he had ever been adopted I don't know, adopting and marrying into the Cherokee people is a different thing aint it.

Q Do you know from whom Col. Bryant bought Burrell Daniels? A No sir I don't.
Q Now didn't you answer awhile ago that the first time you saw Burrell Daniels was in Arkansas? A It appears to me that he must have been out on Frog Bayou, he rented a farm down there, maybe in '63 down on Frog Bayou, and he had some niggers on it, whether Burrell was amongst them, I don't know but maybe he was.
Q That is your impression, but you don't know? A My recollection ain't very good.
Q How old are you now? A I am 80 years old.
Q Your recollection about these dates is not very good? A No sir.
Q What became of the rest of these slaves that Col. Bryant had and subsequently went with him to Mexico, what became of them?
A Well when I left Mexico they were in Chihuahua, that is all I know about them, I don't know, I didn't come back with Bryant's people.
Q Did you come before him or after he did? A I started before he did.

BY THE COMMISSION:
Q How many Cherokee families were in this party that went to Mexico? A I don't know, lets see, in our crowd there was myself, was the oldest one, Lindsey and Buffington and Bennett, and Bryant himself.
Q They all had families did they? A Yes sir.
Q This party was then composed of Col. Bryant and his children and their families together with some of their slaves? A Yes sir.

BY MR. HASTINGS:
Q Was Buffington and Bennett sons-in-law of Bryant? A Yes sir.

BY MR. BLUE:
Q Did Col. Bryant have any of the slaves of his mother along with him? A Yes sir.
Q How many were they of them with him when the party went to Mexico? A Three I think.
Q Were those the girls you were speaking of awhile ago? A Well there was one nigger ~~man~~ man named Abe, he stuttered very bad, you could hardly understand him at all, and then there was a nigger girl, Mealie and then the old woman, I don't recollect whether she was living or not.
Q What became of the other slaves of Col. Bryant that you say you and he didn't take to Mexico with him? A I don't know.
Q Had they runed off? A No sir I think not.
Q Where do you think they left them? A I don't know, some of them,--lets see---I don't recollect.
Q As a matter of fact Mr. Baugh Col. Bryant took all the slaves he had with him when he started to Mexico? A No sir, he didn't.
Q Where did he leave any of them? A Well he left some of them on Red River I think.
Q Before he went down into the Choctaw country? A No sir, before he went to Mexico.
Q Had he sold them? A Yes sir I think he sold them to some fellows there for beef cattle.
Q Not the slaves? A These fellows that bought them I think were Yankees and they thought they would be allowed to keep them I reckon.
Q And you mean to say that he took all the slaves except what he sold at that time, did he? A Yes sir.

Q Had all these sons-in-law of Col. Bryant that were with him there in that party been in the Confederate army? A Yes sir.
Q About how many more Confederate soldiers were there with him before he started to Mexico besides his sons and sons-in-law?
A Well I can't recollect there was some fellows, a little company I think there some men that started out that was but I don't know where they left us.
Q What was his name? A I think it was Captain Steward.
Q Did he have a company of his own? A Yes sir a small company, as they all had left him but 10 or 15.
Q Then there was his company of 10 or 15 and Col. Bryant and his sons-in-law that started to Mexico? A Yes sir.

BY MR. HASTINGS:
Q You don't know how far he went with you? A I don't recollect where he left us.
Q Who all got to Mexico with you or do you know? A There was Bryant's family and his sons-in-law and ther was some other fellows that fell in with us, several that fell in along.
Q So you don't remember the names of the parties? A No sir.

BY MR. BLUE;
Q Did any other fellows that fell in take in slaves to Mexico?
A No sir.

WITNESS EXCUSED.

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R. W. MINAHEY, recalled by Cherokee Nation:

BY MR. HASTINGS:
Q Did you witness that written contract that was made between Col. Bryant and Burrell Daniels that was made at Fort Stockton?
A Yes sir.
Q And it was made to cover the expenses and transportation of Burrell Daniels and his family? A Yes sir.
Q And you were a witness to it and signed it as a witness? A Yes sir.
Q Of course you don't know what became of that contract? A No sir.

BY MR. BLUE:
Q Did any of those colored people sign that contract themselves?
A No sir they signed it by mark.
Q Who wrote the names? Lem Smith and Joe Bennett and myself witnesses it.
Q Who was Bennett? A A son-in-law of Col Bryant.
Q What was Smith doing with the party? A Smith was an old friend that went with us.
Q He was an exconfederate soldier was he? A Yes sir.

BY MR. HASTINGS:
Q Daniels thouroughly understood the nature of that contract?
A Yes sir.
Q It was explained to him? A Yes sir.

BY MR. BLUE:
Q Who explained it to him? A Col. Bryant.
Q What was the contract? A It was that he was to pay so much money for the transportation of himself and family into Mexico, and that he was to work it out at the contract price, I don't know whatever that was, can't say about that.

BY THE COMMISSION:
Q What was this Fort Stockton, a small village or what was it?
A It was a small kind of a barracks it was, I suppose built to accommodate one or two companies for their protection, it wasn't very old, It was put up there during Buchanan's administration.
Q What was the nearest town to there? A I couldn't say, El Paso was about 200 miles.
Q What kind of a country was there around port Stockton? A There was prairie country.

BY MR. HASTINGS:
Q Were there any soldiers there at port Stockton? A No sir, and hadn't been for quite awhile.

BY MR. BLUE:
Q What was an abandoned fort then? A Yes sir.
Q What was the nearest settlement to that fort at the time you were there? A I said El Paso or Presidio de Norte.
Q About how far was it? A About 200 miles.
Q Was there any houses in between there? A Well it was quite a distance to any of them.
Q This place you spoke of as Presidio de Norte is it near what is El Paso? A No sir, it was way down the river.

J. H. BAUGH RECALLED:

BY MR. BLUE:
Q In answer to a question of Mr. Hastings you said that Burrell Daniels asked this Governor of Chihuahua to pay this judgment, you don't know anything about that do you Mr. Baugh? A All I know about it is that it was my understanding that Governor Terrasso paid Col. Bryant for their transportation because Burrell agreed to work the money out and he went to Terrasso's ranch, sheep ranch and took care of sheep.
Q What I want to get Mr. Baugh you don't know how that happened to be done, you don't know anything about Burrell requesting it or anything of that kind? A No sir just my understanding.
Q Your understanding as I get it is that the Mexican Governor did pay that and took these people and put them out on the ranch? A No sir, I don't know about them, but I am satisfied that he never did without being asked.

BY MR. HASTINGS:
Q Why are you satisfied? A Well if he hadn't I think I would have found it out.

EXAMINATION BY THE COMMISSION.

This case was here continued until 1:45 P. M. this day.

The following testimony was introduced on behalf of the applicants:

BURRELL DANIELS, being first duly sworn, testified as follows:

BY MR. BLUE:

Q What is your name? A Burrell Daniels.
Q Are you the same Burrell Daniels that has testified before in this application? A Yes sir.
Q Did you know Col. Bryant? A Yes sir.
Q Where did you first know him that you remember? A When I lived up there on Grand River.
Q Did you know him before the war began? A Yes sir.
Q Did he ever after the war began get control of you? A After the war began, a long time after it commenced I was put with him with his command, me and a whole drove more.
Q Who put you there? A Our owners put us there to keep us out of the way of the Yankees.
Q Was that all done at once or from time to time? A Done when they had us on a retreat down here when we got out here about Skelleyville, Choctaw Nation.
Q Did you have a family then? A Yes sir.
Q Where were they? A My wife belonged to Johnson Thompson, and Lewis and Abraham, and Tom and Sarah I believe they were my oldest ones, and Nancy.
Q What became of your wife and children when you were put with Col. Bryant? A They were with the white family, with Mr. Bryant family.
Q Do you mean by that that Col. Bryant took charge of you and your family? A He told us all the time we were with him to keep us out of danger.
Q Were your family with him the same as you were? A Yes sir, they stayed with his wife and he taken me out in the army with him, and the rest of them worked around the family.
Q How long were you with him during the war? A I think it was over two years, while the war was going on.
Q Do you remember being with him in Arkansas at any time? A That was when he first put us with him.
Q At what place in Arkansas? A On Frog Bayou below Van Buren.
Q Who had that place in control at that time that you knew of?
A I don't know who was the owner of it, it was turned over to him.
Q Turned over to who? A Mr. Bryant, I didn't know he was the owner but he took charge of it and put in a crop there, but I don't recollect whether he gathered the crop or not.
Q Did you work on the farm there? A Yes sir.
Q Did these other colored men work there too? A Yes sir, I worked there but most of the time I was out with him.
Q What did you do with him when out with him? A I cooked and drove a six mule team.
Q After you left Frog Bayou to what place did he take you? A He carried us over to Fort Smith and camped a day or two and then we were taken down the Arkansas River to Dardanell and before the winter was out he carried us in below Booksville, and then after a while he carried us up above Booksville.
Q Where were you in down there about Booksville? A In the Choctaw Nation on the Red River.
Q At what place in the Choctaw Nation did he keep you at the time he had control of you? A We were down there below Booksville awhile and moved from there above Booksville on the Red River and stayed there until the war ended, moved the family up there, the colored family and his family.

Q You were then in the Choctaw Nation were you? A Yes sir.
Q About how many colored people did he have there in that neighborhood at that time? A He must have had about 30 or 40, somethin along there, little and big.
Q Do you know to whom these colored people had belonged before that time? A Some of them had belonged in the Nation here, and some of them belonged to some persons in Missouri, and some of them belonged to somebody on Grand River, and some of them were his own.
Q Do you know whether any of his mother's slaves were along? A Yes sir his mother was along with him.
Q Col. Bryant's mother? A Yes sir.
Q Did you know a Mr. Baugh, a son-in-law of Mr. Bryant? A Yes sir.
Q Do you remember any other sons-in-law? A Yes sir, Mr. Lindsey, John Buffington and Joe Bennett.
Q If he started to old Mexico from what place did he start? A
A From up there above Doaksville, he never started until the war ended and everybody was going home, he come and told us to get ready we were going to march and he marched us over into Texas, and some of the niggers were talking about running off when he said he was going to take us along, and he said he was going to kill the niggers that runed off, and Joe Bennett told him to kill old Burrell and he wouldn't have any trouble, and he called me up and asked me if I was trying to get them to run away and told him no, and they took us then and carried us further over into Texas and they was cutting wheat with cradles and we worked there and after this and started out for Austin, Texas, and when we got to Waco and crossed the river and got on the other side of Waco, and camped, his men went back into town and broke into the stores and he had to leave there, and then struck out for Austin and was going to Austin met a runner stating the Northern Troops were in Austin and then struck out across the plains.
Q Where did he go to them? He travelled I reckon about two weeks, got clean out the settlement and camped, picked out some of his best men, Captain Stewart, Lieut. Thomas, Lieut. Gatterson and sent them back to east Texas and they brung out 1500 head of cattle.
Q About what place was it that they went back after the cattle?
A I couldn't tell, it was way out on the plains quite a goods ways from any settlement.
Q What did they do with that 1500 head of cattle? A Carried them along with us and a crowd got after us and we were two nights and days without anything to eat or water.
Q You mean to say he and his party and stock travelled how long?
A Marched us all night and all day, told us we had to keep kicking there was a crowd after us.
Q What did you do then? A Travelled until he thought we were out of danger and then camped so as to let the stock graze and after a day or so started on again.
Q Did you continue to travel? A Yes sir, until we got to, I don't know exactly how long we travelled, we travelled until where the United States used to have troops and there he stopped and rested awhile. He stopped there like this evening and the next morning made us all form a line and told us to come up and sign a paper he had made.
Q Who do you mean by saying all? A All the colored men.
Q Did you form the line? A Yes sir.
Q Then what did he say to you? A Said to sign this paperand the first nigger kicked why he would kill him and let the wolves eat his bones, and when we got to Mexico he was going to put us on a farm and get even with us.

Q What did he do there when he had you in line and told you that?
A Nothing but to sign it.
Q Did you sign your names? A No sir, he signed it and we touched the pen.
Q Was there anybody there with you who saw it? A Yes sir I have a boy there.
Q Do you remember any white men? A Yes sir, his soldiers and all his sons-in-law.
Q How many of his soldiers did he have? A I don't know exactly, had a little squab of them, maybe 35 or 40, maybe more.
Q Were they armed or not? A Yes sir all had arms.
Q How did you travel across that country? A All of them colored men were driving mules teams.
Q You say his sons-in-law were there when you signed this paper?
A Yes sir.
Q Were they armed or not? A Every one of them were armed, they had the arms on them that were in the war with.
Q Do you remember Lindsey one of the sons-in-law? A Yes sir.
Q Was he there? A Yes sir.
Q Do you remember whther he witnesses the contract or not? A Yes sir they were all there.
Q Now you state to the Court whether you went with him to Mexico of your own free will? A I did not, I have got to die before long, and it would not be honorable for me to tell a lie. He made us go.
Q Was that true of all you colored people? A Yes sir.
Q About how many of you men that he made sign that contract that day
A Me, Tom, Joe, Uncle Edwin, I think there was six of us, just the men, no women.
Q At that time about how many colored people did he have with him out there at that fort? A He had a lot of women and children, every one of them had children, about two or three girls.
Q Are you able to state about how many there were of them? A My woman I think had Lewis, and Abraham, and Tom, and Nancy, and I think Sarah, and then there was another woman along that had two children but as he was goigng trough Texas he sold Rainy andher children and the balance he carried on.
Q To whom did Uncle Abe belong? A Mr. Bryant.
Q To Mr. or Mrs. Bryant? A I guess to Mrs. Bryant.
Q Is that the old lady? A Yes sir.
Q Col. Bryant's mother? A Yes sir but he had them with him all the time.
Q Now did those colored people that were with him at this fort all go over into Mexico too? A Yes sir all went over into Mexico when across the Rio Grande travelled on about 160 miles from the Rio Grande camped us there by a Mexican French called Talliope.
Q How far was that from Chihuahua? A One mile.
Q After you got to Mexico what occurred in regard to you colored people over there? A Every day or two a Mexican would come out in fine carriages and carry off the girls and boys and told him they would pay him so much money apiece for them, and asked him if they were citizens. I got up one night about mid night and went up to the city and hid them.
Q When what occurred? A I suppose he went before the French general and taken oath of allegion and had a writ issued from the French and come and arrested me and marched me and my family down the street and an American Merchant there met them and told them he had runed off with us, that we were free when we left here and that threwed it into court.
Q Told them Col. Bryant had runed off with you? A Yes sir.

Q Then what was done? A While they were trying the case stepped in a little man very fine dressed and he come in and asked Mr. Bryant and talked french, Mexican and English and said he wanted to have a word to say to Mr. Bryant and asked him when he started from the States with these niggers and he told him and he asked him how long you were crossing the plains with these niggers, and he said three months, and asked him how come him so long and he said took it slow and asked him what this man was doing here, and he said drive my team, he asked him what kind of a team and he said six mule team, he asked him what did these nigger women do and he said waited on my mistress, and he asked him what these little boys did and he said drove my stock; and he said he runed off with these niggers and he sent a runner to Maximillian that he runed off, and the runner come back and Maximillian said let them be and he turned around to the court and asked him if it be that, and he asked Mr. Bryant how much they owed him, and he said $500.00, and he asked him if any niggers ever owed his master, and Mr. Bryant didn't answer, and he turned around to the French officer and told him to sum it up so much a piece for this man, woman and they sumed it up and knocked it down to $113.00.

Q They put that in as a counter bill against Bryant's claim? A Yes sir.

Q What reduced it to $113.00? A Yes sir, and the Mexican Governor got up and said I have no say so, if I had I would have turned them loose when you first come here and he paid the $113.00 and sent us out on the ranch.

Q Was that the man before whom you were tried? A That was the Mexican Governor, he put us out on the ranch and worked us 5 or 6 years, they give me $6.00 per month, my wife didn't get nothing and my little boy sometimes would get $1.50 per month to herd sheep and while I was working there, I was on the road which runed from Chihuahua to El Paso come a man moving his store from Ganto Fee and he asked me what we were doing there, and he said my wife is from New York and I am going in and pay you all out from here, and I will give you a chance to get out of here, and went on in, and a Spanish man came to the ranch and said the Mexican Governor said for us to come to the city and asked what he paid for us and he paid $250.00, and we went to work, she nursed for the madam and I cooked.

Q That is this party that paid you out? A Yes sir, he give us $8.00 a month apiece, and we worked this $250.00 out with him.

Q Then what did you do? A When I got through that I worked around my wife was expecting to be confined and after a month until she got straight and I left her there with Mr. Brown, a lumber man and I followed a train of wagons from the City of Chihuahua to the Rio Grande and the Government had wheat shipped out of Mexico.

Q What Government? A The United States Government, grinding it for the forts up and down the Rio Grande.

Q You say the United States Government had wheat shipped out of Mexico? A Yes sir they shipped wheat and had a mill right on the bank of the river.

Q Grinding the wheat for the use of the United States soldiers?

A Yes sir.

Q When you got through there, what did you do? A I went to work there and I cooked for the boys and worked in the mill of nights for about ten months and kept money going back to my family to keep them up and finally come a Mexican train from San Antonio, Texas, went into Chihuahua andhe promised to bring my family to me for $15.00, and he brung them to me for $15.00, and they stayed there

with me until another train came along, and American one and an Mexican driver by the name of Mr. Grover, and they went on to the City ofChihuahua and when they returned back I told them that I wanted to go to San Antonio with them if I could. I told them I had a big family but didn't have enough money to pay them and he asked me if I could shoe mules and I told him yes, and we crossed on the train, and every time we sto ped and rested I would shoe 5 or 6 mules, and when we got to the City of ~~the~~ San Antonio, I went to him and asked him what he would charge me and he looked at me and laughed and said, you have done better to me than the blacksmith ever done, and he said the mules were better shod than they ever was, and he gave me $10.00 and told me to go and rent a house.

Q That was at San Antonio? A Yes sir and after I left the Rio Grande and got to Fort Davis the United States give me rations to Fort Stockton and there they give me rations to Fort Clarke, and there they give me rations to San Antonio.

Q That was when you were travelling with the train? A Yes sir.

Q What did you get working there at the mill for the Government?

A I got $25.00 a month and sent a big part of it back.

Q When you reached San Antonio how much money did you have?

A I don't guess I had any.

Q You got $10.00 from that train master? A Yes sir.

Q Outside of that did you have any other money of any consequence?

A No sir, I don't think I did.

Q What ~~work~~ did you do there at San Antonio? A I went to work there I reckon about a year and not being used to the climate and water I took down and was down to near a year and the City Doctor had given me up to die, and I was very sick and the Doctor came around from New Orleans and took hold of me and stayed with me until I got up.

Q Now during the time you were down sick did your family do anything? A My wife washed and the boys worked around the hotel.

Q Did they save up any money while you were sick? A When I got up I borrowed the money and paid the doctor bill from a policeman named Sol White loned me $25.00 to pay my doctor bill and as soon as I got able to I went back 25 miles from San Antonio on a ranch and went to work, me and the boys.

Q How did you work there? A Put in grain and cotton on the halfs r and the first year I come out a little in debt.

Q Now you tell what this farm contract was that you worked under?

A The rent was half renters and I don't care how much you made everything you ate came through their hands and you had to sell what you raised to them and when you got through they might say you were ahead or you were in debt.

Q When you say half rents that means half you raised and when you went to the stores you bought the stuff from them? A Yes sir.

Q Then at the end of the crop season what was the consequence, how did you come out of it? A At the end of the crop season he said I owed him $300.00 and took the crop for it.

Q What did he say about you coming away? A He would not let us come away, we were in debt a little more and said we had to stay there and put in another crop and we did stay and we put in another crop and took up and I left any how.

Q Where did you go then? A Back to San Antonio.

Q Then what did you do? A Worked around there awhile until I got a little money and there happened to be an excursion starting out and the old lady said she wanted to come home and we taken that excursion train and stayed on it until we got to Wimer, Texas and they put us off there.

Q Now you said you loaded up and went down to San Antonio, did you have a team there? A No sir I never had any team.
What did you have there? A I hired a man to haul us away.
Q Did you have any money at that time? A No sir didn't make any, didn't get any out of the crop.
Q The owner still claimed you owned him? A Yes sir and after I got to San Antonio he came in and told me if I would come back and go to work he would give me $30.00.
Q Now then when you got up to Wimer what did you do then? A I went up to a place near Holdman Valley and raised cotton.
Q Was that in Texas? A Yes sir Page County, near Wimer I put in a crop there and gave half I made and I come out even and I was going to quit and go to another man named Mr. Wimer and the man that I rented from came out and said here don't you leave here, my brother has made a kick about this half rent, claimed that we were starving he poor people and said out of every four bails you give me one and take three, and give me one and you take two thirds of the grain, and I stayed there and went through that year and I believe me and my son made 15 bails turned in my rent and paid up all our debts and everything and we had money enough to come to Muskogee, and when we went to start, and the last day settling up my wife was with me and they come down there and told us not to leave, and said you have just got to stay here another year and I will fix it so you can get a little piece of land up on the prairie, and my wife told him no she couldn't do it, and he said you had better not do it for I read in the newspaper that those Cherokees were killing niggers and floating down the river, you had better not go, but we didn't stay.
Q Then what did you do after you came to ~~Muskogee~~ Muskogee? A I went down here and found my mother, got here in the fall and the Cherokee council just had adjourned and I worked for a lawyer called Bird Harris, and I went to work for him and fixed fence.
Q Was that in the Cherokee Nation? A Yes sir, out here just the other side of that church and I worked for him and made a crop and moved down to Mrs. Nivens.
Q Was Mrs. Nivens place in the Cherokee Nation? A Yes sir.
Q Then what did you do? A The next fall come after the time we got here I went to the Cherokee Council, Gus Ivy and George Butler got up a bill and carried it in and had it signed up and all the half breeds signed it up but the full bloods and they got up and made speeches said that we were carried to Mexico and kept there so many years and said we had a right but they every one signed it up and George Butler got a room where there was nothing but full bloods and George told them he wanted them to sign it up, that this old darker had been to Mexico a long time and they studied and studied so long that he told me to go in he wasn't going to fool with them, we can make up citizens without them damn Indians and Mrs. Bushyhead said you have got plenty of time and told them to go on home that they would see if I got my citizenship and when Wallace enrollment come on mistress sent for me old Mrs. Daniels, of Vinita, and I was put on the roll up there.
Q On the Wallace Roll? A Yes sir, she sent two colored men up as witnesses for me, and when Kern-Clifton come they sent me a letter to meet the enrollment in Tahlequah, I don't know it was written to me by some of them Cherokees, I went and Mrs. Bushyhead got up and witnessed for me and had them take my name and send it to Washington to the Secretary to act on it. Mr. Hastings was there and seen that.

Q was any of your family besides that? A every one but Tom and Lewis, didn't get their names right.
Q You mean by that they made a mistake in putting those two on?
A Must have they didn't get them on but got all the balance.
Q Who was Chief of the Cherokees when you came back that you know?
A Mr. Bushyhead.
Q During the time that you were with Col. Bryant on the way to Mexico and after you got there until you got back to the Cherokee Nation where did you intend to go to when you got so you could go?
Mr. Hastings: I object to that as not being a legal proposition

A I always intended to come to the Cherokee until I got here.
Q During all that time where did you consider your home? A Cherokee Nation.
Q Did you ever at any time have any home anywhere else? A Never did.
Q Why didn't you come back to the Cherokee Nation sooner? A I wasn't able to, I had a house full of little children and sometimes I would get to working, worked out and couldn't save enough to come up and just as soon as this railroad got to San Antonio we taken the train then and kept a travelling until we got here by working along.
Q Now was there any time during all that time in your power to get back here any sooner than you did? A It was out of my power I had nothing to come back here with.
Q As soon as you got the money you came back? A Yes sir.
Q Now when you got back into the Cherokee Nation what did you do in the way of fixing a home for yourself and family? A I just worked around in the Creek Nation and in the Cherokee Nation just where I could get good wages.
Q Have you ever had a home anywhere else except in the Cherokee country? A I built a little place down here close to the line in the Creek Nation, went back over into Canadian awhile and lived.
Q How long were you at that place in the Creek Nation? A I don't know, maybe two or three years, sold it for some stock and moved back in the Cherokee Nation.
Q Do you remember what year it was you had a place over there?
A No sir I couldn't tell you exactly I can't read, I couldn't tell what year it was; I have been living on Caney River about 9 or 10 years up in the Cherokee Nation.
Q Coming back to this fort to which Col. Bryant took you, do you remember the name of that fort? A Fort Stockton.
Q At the time he compelled you colored men to sign that contract about how far was it from that place to any settlement that you know of? A There was no settlement.
Q According to your best judgment about how many miles were you to any settlement? A I don't know exactly how far it was from Stockton to Davis and after we got to Davis it was 90 miles to the Rio Grande.
Q On the day you were set free did you have any teams or horses any way to get away from there to Waco? No sir never had any way.
Q Did you have anything of your own to eat if you had started back from there? A No sir nothing at all.
Q During that time did you ever say to him or to any of his people that you wanted to go to Mexico or that you were willing to go to Mexico? A No sir never asked none of us. After he moved from the Choctaw Nation to Texas he called us up and said he heard some of us were talking about running away and he said he would kill us if we did, had a great mind to kill us anyway.

Q At the time you say he told you you had to sign this contract, just tell what he said at that time? A He said he heard some ni ger murmuring back there in the crowd and if he does it a ain I will kill you and let the wolves eat you right here.
Q What did he say about carrying you into Mexico? A He said I am going to carry you over and put you on a farm until everything gets peaceable here and I will fetch you back to the nation.
Q Do you know anything about where that 1500 head of cattle come from of your own knowledge? A No sir he sent men back and got them.
Q Do you know who brought them back to his camp? A I knew the officers, Captain Stewart, Lieut. Catterson, Lieut. Thomas, Lem Smith, and Joe Bennett, Bennett was a son-in-law.
Q Who was this man Smith? A A soldier of Bryant's.
Q And lived with him before the war? A Yes sir.
Q What became of that 1500 head of cattle? A Took them to Mexico and sold them.
Q Kill any of them on the way to eat? A Yes sir.
Q Did he have any cattle of his own when he started from Texas?
A Yes sir had a few, bunch of cows, in driving through the settlements of Texas those cows, we had a little boy to drive them and he would tell the little boy to get around there and mix them and carry them on.
Q As you drove along? A Yes sir make a little colored boy drive them in and take them along.
Q Do you know anything about what provisions he had with him when he started from Texas? A Yes sir I was driving a six mule team It was loaded with flour, he killed a beef now and then for his own family.
Q In crossing over the plains there for whom did you work from the time you left Texas to Mexico for yourself or some one else?
Q Drove a team for the Colonel.
Q For whom did your wife work? A Cooked for her mistress.
Q Did he say anything at Fort Stockton or any place about freeing you? A No sir said there was no freedom for niggers, and that the Yankees were going to take them off and put them on the cotton plantations.
Q When did you first learn about the Treaty of 1866? A When I come to the Nation here.
Q From whom did you learn it? A Mrs. Nivens and Mr. Harris.
Q Had you at any time before that known anything about the Treaty of 1866? A No sir, never did, where I lived I was in Mexico 6 or 7 years, never heard a thing of it.
Q Did you hear anything about it while in San Antonio? A No sir, not until I got back here.

BY MR. HASTINGS:
Q Burrell what year is this? A I can't read, I can't tell you what year it is. Bushyhead's
Q You testified before that you came back here during ~~Buffington's~~ second administration, didn't you? A I testified that I came back here a year--the council adjourned and the next year I went and he was Chief but I don't know whether he was Chief when I got here the year before that.
Q Didn't you testify when you were on the stand before that it was during ~~Buffington's~~ Bushyhead's second administration? A I couldn't tell.
Q Did you testify to it? A I don't recollect.
Q George Butler knew when you got back didn't he? A I told him I got back the fall before we got to Tahlequah.

Q He has testified in your behalf and it is in evidence that you got back in 1884, do you think that is about correct? A I don't know sir.
Q He knew when you got back, didn't he, you told him? A Yes sir he knew when I got back, but I don't know whether he stated it to council or not.
Q But he has testified in your case since this case has been pending before the commission and he testified that you came back in 1884, do you think that is correct? A I don't know.
Q He testified as your witness didn't he, you brought him before the Commission? A He went down there before the Commissioner.
Q Well before this Lawes Commission he testified for you in this case hasn't he? A I said he did, I didn't see him.
Q And he testified as your witness then didn't he? A Yes sir.
Q Now if he testified that you came back in 1884 you aren't prepared to ~~xxxx~~ dispute that you stand by your own witness? A Yes sir.
Q What is the first time you had ever been back to the Territory after the war? A Yes sir, but I don't know what time it was.
Q Didn't Col. Bryant give you your discharge out at Fort Stockton?
A No sir.
Q Didn't give you any discharge? A No sir didn't give me any discharge, never until he got that money.
Q And that was over in Mexico? A Yes sir.
Q Was that in 1865? A I don't know when it was.
Q But he did give you a discharge there? A No sir but he sold me to the Mexican Governor.
Q I think you said he got it into court and the Mexican Governor said you owed him $113.00? A The Mexican Governor paid $113.00 to him and put me on the ranch.
Q What was in the Mexican court there? A No sir it was the French Court, the French General took care for us to be turned loose.
Q He testified you owed him $113.00 for transportation? A Yes sir.
Q That was for you and your wife and your children? A They claimed $500.00 but cut it down.
Q What is what they got wasn't it? A Yes sir.
Q After that Mr. Bryant never had any more to do with you? A No sir.
Q How long did you work for that fellow Terrasso? A I worked 5 or 6 years.
Q You worked for $8.00 a month did you? A Yes sir.
Q 6 X 12 would be 72, wouldn't it? A I don't know.
Q It wouldn't take you two years at the rate to work you out?
A No sir you couldn't work it out, every year you worked you owned more.
Q Now you have testified that you stayed in Mexico 5 or 6 years?
A Yes sir, and I swear to it, there was three children born there.
Q You stayed in Mexico all told 5 or 6 years, is that correct?
A Yes sir.
Q You went there the year the war closed? A Yes sir.
Q When that made you come to the United States either in 1870 or '71? A No sirI didn't, the man that paid me out, I worked for him at $8.00 for my wife and myself until I paid $250.00.
Q You said you stayed in Mexico for 5 or 6 years? A I stayed on a Mexican ranch 5 or 6 years.
Q When where did you come to from the Mexican ranch? A I went out and worked for the man that paid me out and carried me into the City.

Q How long did you stay there? A I must have stayed there 15 months.
Q Then where did you go to? A Around town and worked awhile until I got ready to come to the Rio Grande.
Q hen where did you go? A I come to the Rio Grande.
Q Then you stayed as I understand you, 5 or 6 years with the Governor of Chihuahua, then about 15 months with different people for whom you worked, , then about a month or two before you went to the Rio Grande, that made all told about 18 months? A I left my family and come to the Rio Grande and worked there about 18 months and sent money back to my people.
Q How did you send it back? A I went over across the river to the merchant and he sent it back to them.
Q And from the 5 or 6 years that you stayed with the Governor of Chihuahua, then the other time, 15 months, and then some two or three months added to it, would make it in all 7 1/2 years all told that you stayed in Mexico, wasn't it? A I stayed in Mexico I expect something near 8 years, the first child rowed to be that high (indicating) right on the Mexican ranch, and the next one got up to be a good size lad, and the next boy, he is here now, he was about 6 months old before I left Mexico, the last one.
Q Which one is that? A Burrell.
Q Then how old is he? A I don't know exactly.
Q He is given in to be here in 1901, Burrell's age was given in as 30 years of age, is that about correct? A We just made a guess at the ages.
Q Was that your best judgment under oath at that time? A Yes sir.
Q Now then this boy was about 6 months old when you left Mexico?
A I think so.
Q Then if he was born in 1871 you left Mexico about 1872, the latter part of '71 or '72? A I can't say, I don't know, I can't read.
You know his age was about 6 months old when you left there? A
A Yes sir and when we got here, the first roll was the Wallace Roll and we just guessed at the age, I don't know my own age unless I go to Wahlequah.
Q This card here, R-390, gives your boy, Burrell H. Daniels, age as being 30, and this is dated December 17, 1901, do you think that is as near as you know correct? A I don't know, it might be just about it.
Q Have you any children born since Burrell H. was born? A Yes sir, Lizzie and Mack were born.
Q Where was Lizzie Born? A She was born at Hill's ranch.
Q Where is that? A The last place I stayed before I come here.
Q Where was Mack born? A In San Antonio.
Q Is he alive? A Yes sir he is here in town.
Q Mack's age was given in 1901 as found upon R Card 392, as being 2 years old; do you think that that is about correct then?
A Mack is older than Lizzie.
Q I have not mentioned Lizzie's age, I said Mack was given as 25 years old in 1901, is that correct? A I don't know.
Q But you know you were there in San Antonio when Mack was born?
A Mack was bon in San Antonio and Lizzie was born on Mr. Johnson's ranch before I left there.
Q Is Lizzie a year older than Mack? A No sir.
Q Which is the older Lizzie or Mack? A Mack, he was born in San Antonio before we ever went to Johnson's ranch.
Q How many children did you have born in the State of Texas?
A Three I guess.

Q What are their names? A Lizzie and Jack and Robert.
Q About how old was Robert when you left there to come to the Cherokee Nation? A He was a little kid, I don't know just exactly. how old, just a little child.
Q About how old was he? A I couldn't tell you to save my life.
Q Was he a baby two yearw old or three? A Just getting so he could talk, just learning to talk.
Q Do you think he was a year old or two years old? A He was a year old.
Q Do you know whether he was two years old? A I don't know whether he was two years old or not.
Q According to this card Robert was born in 1881 then that would make you come here about 1883, is that about correct? A I don't know unless I could read, I couldn't tell.
Q Now then according to your statement you stayed in Mexico between 7 and 8 years so you came to Texas in 1872 or '73, now then according to your own statements you lived in Texas from 10 to 12 years? A No sir, I don,t know.
Q Now if you come there in 1872 which is the best we can get at it from your own statements, where did you live the first year?
A I lived the first year in San Antonio.
Q Now what did you do? A Worked around on the streets.
Q What did you get there? A I got enough to keep my family living, we paid house rent, yes sir.
Q How old was your oldest boy then? A I hired them out around the hotels.
Q How old was your oldest one? A I don't know exactly how old he was.
Q How old was your oldest boy when the war came up? A Big enough to drive cattle.
Q Now then 12 years after that they were up nearly grown then were they? A I hired them out as little boys and got the money.
Q How long did you live at San Antonio? A Lived there a year and went from there to Mr. Johnson.
Q Where did he live from there? A About 25 miles.
Q What did you do out there? A Farm.
Q Did you farm on the shares? A On halfers.
Q How long did you farm for Mr. Johnson? A Two years.
Q Where did you go from there? A Back to San Antonio.
Q What did you do in San Antonio then? A I worked around there until I got money to leave.
Q How long did you stay there? A Around there two or three months.
Q Where did you go from San Antonio then? A The excursion left there and I came to Wimer, Texas.
Q How long did you stay at Wimer, Texas? A Two years.
Q What did you do there? A I farmed.
Q Then where did you go to? A I came to the nation.
Q That don't tally with the number of years? A No wonder I stayed in Mexico so long I couldn't tell how long I stayed in Mexico.

Mr. Blue: I object to this,witness states that he does not know, and it is shown here and he has answered that I expect 20 times that he did not know, I object to this method of examining the witness, and I think it is not necessary to ask an old man 25 or 30 times, it does not seem to me to be lawyer like.

Q When was the first child you had born in Mexico? A Elmira was the first one.
Q She was born in Mexico was she? A Yes sir.

Q What is her name now? A Elmira Daniels I guess.
Q Is she living? A No sir she is dead.
Q What is the next one? A Ruthie.
Q Did he die there? A Yes sir she died there.
Q What was your next child? A Burrell H. was born in the City of Chihuahua.
Q You come to Texas then about 6 months after Burrell H. was born?
A I don't know.
Q Aint that what you testified to awhile ago? A I don't recollect how old was he.
Q What did you tell me awhile ago? A I told you he was born in Chihuahua.
Q I asked you how old he was when you went to Texas you said he was born in Mexico, now how old was he when you left Mexico and went over into Texas to San Antonio. Didn't you testify awhile ago that when you went over into Texas he was 6 months old?
A He may have been andmaybe have been older.
Q Is that your best judgment? A Yes sir.
Q When was your first child born after you got over into Texas?

Mr. Blue: I object to that for the reason that that must be about 6 or 8 times since that question was asked.

Q When was the first child born in Texas after you come from Mexico?
Mr. Blue: The same objection as above.

A Mack was the first child born after I left Mexico.
Q He was born over there in Texas was he? A Yes sir.
Q The attorneys over here---you never did get any act admitting you over here did you? A They made a bill and all signed it but the full bloods.
Q You never got any copy of the bill to file here did you? A They said they were going to give me a record.
Q Who said that? A All of them in council.
Q Who did you see there? A All of the men in the Senate where I went and made application.
Q Did they give a copy of the bill admitting you? A No sir they didn't admit me but said they were going to do it.
Q They never voted to admit you did they? A I don't know anything about the voting, they sent me a letter to come over there and put me on the Clifton Roll and you were there and saw that done.
Q Butler testified that you came back here in 1884? A I don't know, I was out doors when he made the talk.
Q You know he never testified to anything except your return? A I don't know about that.
Q Was this man Lindsey present when you singed that contract?
A We was right there.
Q He heard Col. Bryant threaten to kill you down there did he?
A Yes sir.
Q Did he sign the paper as a witness? A I don't know what he done Bryant taken us and carried the paper into the tent, I don't know what he did.
Q Did they have a paper over there in the Court in Mexico when the matter was tried. Did they have this paper over there in Mexico when Mr. Bryant had you up there? A Yes sir, had sold 7 niggers.
Q I mean this contract that you signed with him, did he have that over there? A Must have had it, I don't know whether he had it in court or not, he had it.
Q How many cattle do you say they drove across Texas into the Mexican side? A They claimed there was 1500.
Q These men that went along with Col. Bryant were not soldiers, but

it was customary for everybody to be armed? A They were Mr. Bryant's soldiers, never quit him.
Q Did they march along all the time as a company of soldiers?
A Yes sir.
Q Then you don't know what year you left Mexico [illegible]ou? A No sir.
Q You don't know wht year this is? A No sir, I stayed there a long time, have to sum it up, I stayed I guess 10 years down there.

BY MR. BLUE:
Q Do you read and write? A No sir.
Q Can you sign your own name? A No sir.
Q Have you ever been able to read or write or sign your own name?
A No sir.
Q Now when this Mexican Governor took you and paid Col. Bryant $113.00 from that time on did he make any statement to you of how much you had earned or how much his account was? A No sir only told me to come to the ranch and work he would give me $6.00 per month.
Q Did you take your family with you? A Yes sir.
Q Did you ever work out there for him? A Yes sir.
Q Did he ever make any statement to you about how much principal and interest amount to and how much he owed you? A Never did.
Q And when this Jew came along he got $250.00 from him? A Yes sir.
Q Do you know how long you had been with the Governor when the Jew came along? A Something near 6 years.
Q Then you worked you think how long for the Jew merchant? A I think about 15 months until I worked out $250.00 at $16.00 a month.
Q That was for yourself and wife? A Yes sir, got $8.00 a piece.
Q And you think that was about 15 months? A Yes sir.
Q Then you stayed there 3 months more to get something to go away on that would make 18 months? A Yes sir.
Q Then you went over the line and worked there 18 months? A Yes sir I went on a sheep ranch and worked there about a year.
Q Who was that for? A The Mexican Governor.
Q That was in addition to the time before stated you worked for him? A yes sir he took me off of the ranch and put me on a sheep ranch one year.
Q That would be 6 or 7 years your worked for him? A I would not be surprised if it wasn't 8 or 9 years.
Q Then you don't know how long you were over there? A I don,t know, after staying there so long, I had a little girl by the name of Almira that died there, she was 6 I think when she died.
Q You spoke about having gone over to Tahlequah to council, Mr. Hastings was asking you about a man Butler that testified for you over there, did you meet him at Tahlequah? A No sir I met him at Gibson, he went on and on and said for me to come on and tell them what I knew about it.
Q You came back first to Muskogee then went over in the Cherokee nation? A Yes sir.
Q When did you see Butler after that time? A I come here and went down where I found mother and stayed one year until next fall, and then I saw Mr. Butler.
Q You had been here then one year or a little more then you went to Tahlequah? A Yes sir.
Q And when you got there you found Mr. Bushyhead was Chief? A Yes sir.
Q Did you tell Butler when you come back? A Yes sir.

Q Then you mean that it had been about a year from the time you landed here or a little more when you saw Butler over there?
A Yes sir.

BY THE COMMISSION:
Q When you started to Mexico with Col. Bryant at the close of the war how many children did you have? A Lets see, I had Lewis, Abraham, Tom, Nancy, Burrell.
Q You had those children before you started to Mexico? A Yes sir before I started from there back.
Q Now I am talking about the children you had before you went there? A I had then Lewis, Abraham, Tom and Nancy and Andy.
Q You had those children before you went to Mexico? A Yes sir.
Q You say you started down to Mexico with Col. Bryant at the close of the war? A Yes sir.
Q How many children did you have when you started down there?
A I had Lewis, Abraham, Tom, and Nancy and Andy.
Q How many of those children are living now? A Lewis is dead and Nancy, and Abe, I don't know where he is.
Q Did you leave Abe in Mexico? A Left him in San Antonio.
Q What children were born in Mexico? A Burrell was born there, the others died and were burried there.
Q Give me their names? A Wilmira, Ruthie, Burrell was the next
Q After you came back to Texas how many children were born to you?
A Mack and Lizzie and Robert. Mack was twins, his mate died after he was born, then next Lizzie was born and then Robert after her. What was all born in Texas.
Q You haven't had a child born to you in the Cherokee Nation since the close of the war have you? A No sir.
Q Is your wife Miranda living? A No sir she is dead.
Q When did she die? A In August, 1903, I think.
Q Is Robert living? A Yes sir.
Q What about Thomas? A He is here.
Q And Mary, his daughter? A She is here.
Q And Louella, his daughter? A She is here.
Q What about the grand-daughter, is she living? A Yes sir.
Q Is your son Andy Daniels living? A Yes sir.
Q Where? A About a mile above me on Caney River.
Q Is his children all living? A Yes sir.
Q Do you know whether all of these are living or not, Willie, Lewis, Susie, Thomas, Burley, Essie, Winnie, Miranda, and Ruth?
A Yes sir, they are all living.
Q Is Lizzie Shafer living, your daughter? A Yes sir.
Q Has she a child called Arlena? A Yes sir.
Q Is that child living? A Yes sir she has got three more now.
Q What about Mack is he living? A Yes sir.
Q Has he a child called Wady? A Yes sir.
Q Have you a child called Lizzie Haynes? A Yes sir, that is my daughter.
Q Has she two sons, Burrell and Amos living? A Yes sir.
Q What about Mary Hill, she your child? A Yes sir.
Q Has she got two children, Alice and Adam? A Yes sir they are living.
Q What about Burrell H., is he living? A Yes sir.
Q Are all these children and grand-children of yours lived in the Cherokee Nation for the last 4 or 5 years? A Yes sir, it has been longer than that, for the last 10 or 15 years.
Q All of them? A Yes sir, all that is living, all the eldest ones.
Q They have always made their home in the Cherokee Nation during the last 10 or 15 years? A Yes sir.

BY MR. HASTINGS:
Q What is Thomas Daniels wife names? A Her name is Priscilla.
Q Where did he marry her? A When we come to Pake County, Texas.
Q What is his oldest child's name? A I have forgotten the oldest child's name, it is dead.
Q How long , was it named Mary? A Mary is here.
Q Did he have one older than Mary? A Yes sir, I think so.
Q Where did that child die? A I think he said she had one child died, I left him at Pake County.
Q Where was Mary born? A She was born in Pake County.
Q Where was Louella born? A In Pake County, al born in Pake County.
Q Then Tom Daniels and his family came up here 5 or 6 years ago?
ATom came before they did and stayed a year or so and then went back and got them.
Q Then he didn't bring his family until 5or 6 years ago? A No sir he didn't.
Q Whose daughter is Julia? A Mary's daughter.
Q Where was she born? A Up on Caney River.
Q Is her mother a State woman? A I think so.
Q They don't claim through her mother, Thomas's wife? A No sir she died before he left Texas.
Q When did Tom first come here himself? A I couldn't exactly tell you, Tom was here before the Creek payment.
Q Before that payment of 1897, the Kern-Clifton payment? A yes sir before that.
Q Had his family come then? A No sir left his family.
Q About how long after that payment which was in 1897 before his family come? A He come here 5 or 6 months before the payment.
Q You said he come but not his family, how long after that before his family come? A It was after the payment sometime.
Q Well how many years afterwards? A I don't know how many years after.
Q Well your best judgment? A I couldn,t tell you but to save my life exactly how many years after, it was.
Q Has he been here two years I mean with his family? A Yes sir he was here before the payment.
Q How many years has he been here with his family? A He went back after the payment and got his family.
Q How many years after the payment before he brought his family here? A I don't know, it may have been 3 or 4 months, or 5 or 6 months.
Q Where did Andrew Daniels marry? A He married a year I left Texas.
Q Who did he marry, some colored girl in Texas? A Yes sir.
Q He don't claim for these children there with him? A I don't know.
Q Does Andrew,s wife claim citizenship here by virtue of her being a slave of a Cherokee citizen? A She don't claim to be a citizen only by marriage.
Q Where was their eldest son Willis born? A After they got here.
Q Did he and his wife come here when you and your folks come?
A Come with me.

BY THE COMMISSION:
Q Do you know the husband of Lizzie Haynes and the father of the children, he is a State man is he? A Yes sir.
Q Do you know Mary Hill's husband? A Yes sir.
Q Is he a State man? A Yes sir.

Q He doesn't claim any right as a Cherokee freedman? A No sir.
Q Do you know the father of Julia Daniels? A A state man named Dickson.
Q Do you know Jack Daniels wife? A Yes sir, she is a State woman.
Q Do you know the husband of Lizzie Shafer, is he a State man?
A Yes sir, but his mother claimed he has a right, she claims he was put on the roll, I don't know.
Q Is Shafer here to day? A No sir.
Q This Dora Daniels, the wife of Andy Daniels, and the mother of the children on card 395 is a Texas State woman? A Yes sir.

W I T N E S S E X C U S E D.

TOM DANIELS, being first duly sworn, testified as follows:

BY MR. BLUE:
Q What is your name? A Tom Daniels.
Q What relation are you to Burrell Daniels, who has just testified?
A He is my father.
Q Do you know your age Tom? A No sir, I don't.
Q Do you know about how old you are? A I have an idea I am somewhere in the neighborhood of 50.
Q Do you know Col. Bryant? A Yes sir I did.
Q If you recollect, where did you first see him? A When I first opened my eyes to look at the gentleman is when I was on the way to old Mexico. He used to make me sit and fan the flies off of him while he was asleep.
Q You remember him then do you? A Yes sir you bet I do.
Q Do you remember anything about where you started to go to old Mexico? A We started from some plantation in the Cherokee Nation I don't remember exactly where it was.
Q Do you remember anything about being in the Choctaw nation about that time? A No sir I don't recollect about the Choctaw nation.
Q If you remember, about where were you on your way to old Mexico when you first remember Col. Bryant, if you can fix any particular place, do so? A I remember of being on the road but I can't pla do just exactly where it was, we were camped you know.
Q Do you remember how you travelled on that trip to old Mexico?
A Yes sir we travelled, it was in a train of wagons.
Q How did you yourself travel? A I was in a wagon.
Q were there any horsemen that accompanied the party? A I think there was a committee along, they stayed to keep the Indians off of them they said going across the plains to Mexico.
Q Do you remember much about that? A No sir I don't remember so much about it.
Q Do you remember any place in that route by the name of Fort Stockton? A Yes sir, I remember Fort Stockton, Fort Clarke, and Fort Davis.
Q Were these places on the route to Mexico that you travelled?
A Yes sir.
Q Were you large enough at that time to ride a horse? A I don't exactly remember whether I was or not, I might have been.
Q Do you remember being in old Mexico? A Yes sir, I do.
Q At what place in old Mexico do you first remember? A Chihuahua.
Q Do you remember any other place that you lived at in Mexico?
A Yes sir, we were at out on a sheep ranch for several years, I was a great big boy when we left there.

Q About what size boy were you when you left the sheep ranch? A I was a great big boy, about a half grown boy.
Q Do you remember of returning to Texas from old Mexico? A Yes sir I do.
Q To what place did you return in Texas when you left old Mexico?
A The first place was San Antonio, Texas.
Q About what size boy were you when you got there? A I ought to have been a good size child.
Q Do you remember about that? A Yes sir.
Q What did you do after you came to San Antonio? A I worked around my father would keep me hired out first one place then another, working for a salary until he left there, didn't stay there very long .
Q Do you remember whether or not you left there with him? A Yes sir I did.
Q To what place did you go with him? A Out west of San Antonio to some man's ranch they called Johnson.
Q How long did you remain there? A About two or three years, somewhere along there.
Q Did you live there with him? A Yes sir, I did.
Q To what place did you go then? A We went back to San Antonio after that.
Q How long did you remain at San Antonio after that? A I didn't stay there no time, I went south.
Q To what place? A I was down there way below Wimer, down to a placed they called,---I forget now the name of the place.
Q Where did you leave the old gentleman when you separated from him?
A In San Antonio.
Q After you left him there how long was it before you saw him again? A I don't know but I was working for a man named Hill when he moved up there.
Q Where did you next see your father after you separated from him at San Antonio? A I come to see him once before he left there to come to the nation.
Q Do you remember where you saw him at the last time before he came to the Nation? A Yes sir.
Q Where was he? A On the Hill farm.
Q Where was that? A In Texas.
Q Near what town? A Wimer, Texas.
Q Did you remain there with him? A No sir I didn't, I went off.
Q After you saw him at that ranch there in the neighborhood of Wimer, Texas, where did you next see him? A I saw him here.
Q At what place? A Up here on Caney River.
Q In what nation? A Coowescoowee District, Cherokee Nation.
Q When was that? A That has been several years ago.
Q Had you moved up here then? A Yes sir I had moved, I didn't know where they were until---
Q Where were you living at that time? A Way below Wimer on a placed they called Kaviland.
Q Did you bring your family up here with you when you came that time? A I brought two children along.
Q Did you leave them here or not? A They are here.
Q With whom did you leave them here in the Cherokee nation? A I left them with my father.
Q What did you do after you came up here and left those children?
A I helped the old man farm and worked around first one place then another.
Q Did you go back to Wimer again? A Yes sir, after I brought my children up here I did.
Q You up here before you brought any children up here, yourself?
A Yes sir.

Q How long before you brought these two children up? A I was up here a month or so, I guess it was longer than that.
Q were you up here at the time of any payment? A Yes sir, I was.
Q What payment was that? A It was the payment that was paid off up here at Lightning Creek.
Q Were y u here before that time? A Yes sir.
Q How long? A Three or four months I expect.
Q How soon after that payment was it you turned back to the neighborhood of Weimar, Texas? A I went right away as quick as I could get a little money together and went down there to get my children, when I first came up here I come to see where my people were, I was considered lost from them.
Q Having found them here, you say you returned to the neighborhood of Weimar, Texas, then what did you do? A I didn't do anything but go right down there and get those children and come right back.
Q Were those all the children you had? A Yes sir.
Q was your wife living at that time? A No sir she was dead.
Q was she a state woman or freedman? A state woman.
Q Have you since that time married again? A No sir.
Q What are your children's names? A One is named Louella, and one named Mary.
Q About what time did you come back to the Cherokee Nation with those children? A Kinder long up in the year I guess.
Q You mean in about the same time in the year you were up to see your father at the time of the payment? A Yes sir.
Q Where have you resided since you brought those children up to the Cherokee Nation? A At my father's and down here at a fellow----
Q Have you resided in the Cherokee Nation since you brought those children up here? A Yes sir.

Commission: The Lightning Creek payment referred to by the witness is the Kern-Clifton pay roll.

Q What is your recollection about the date of that payment, do you remember what year it was in? A I think it was between 7 and 8 years ago.
Q During the time you resided in Texas after your return to Mexico did you become a citizen of Texas? A In what my way.
Q Did you keep a home in Texas to which you intended to reside?
A No sir, it was my father's talk after he got away from Mexico he would lay down and talk about going to come home and get up a talking about wanting to come home.
Q Where did you intend to return to? A I claimed my home right where I heard my parents talking about, and that was in the Cherokee Nation.
Q What purpose did you have in coming up here the time you first came? A I come to see where my people were, the left me and I didn't have any trace of any of them to know where they were, and I just got on the track of them by travelling, there was a boy stayed down here at Chocotah named William Johnson he got acquainted with my father, when he stayed down here, and he was the one that told me where my people were you know, and if he hadn't told me I don't know as I would have known yet where they were.
Q Were you ever at any time naturalized and made a citizen of Texas or any other state? A No sir.
Q During the time in Mexico, did you become a citizen over there?
A No sir.
Q About how old were you when you left Mexico? A I guess I was about 12 or 13 years old, maybe 14.
Q Have you any judgment as to what your age was at that time? A
A No sir.

Q How old do you think you are now? A I think I am pretty close to 50 if I aint already 50, our father don,t know much about our age cause he never kept no record of nothing.

BY MR. HASTINGS:
Q Your best judgment is that you were 12 or 13 years old when you left Mexico and went to Texas after the war? A Yes sir.
Q And you think you are about 50 now? A Right at 50.
Q Where were you married Tom? A I was married down in Texas.
Q At what town? A I was married near La Grange, Texas.
Q Were you living on a farm or in town? A On a farm.
Q Were you living with your parents then? A No sir.
Q About how old were you when you were married? A I don't know I ought to have been very near grown when I married.
Q What was your oldest child's name, didn't you have one to die?
A Its name was Aleck.
Q Where was he born? A In Texas.
Q Near what place? A Near Weimar, Texas.
Q About 8 or 9 miles of Weimar? A Yes sir.
Q What were you doing out there? A Farming.
Q For whom? A I don,t know the man,s name.
Q Where was Mary born? A She was born in about 8 or 10 miles of Weimar.
Q Where was Louella born? A Not very far from the same place.
Q What was the first President you ever voted for, Grant? A If I voted at all I guess I voted for Grant.
Q What Congressman did you vote for down there? A I don't know sir
Q What Governor did you vote for? A I guess I voted for the Governor of Texas if I voted for any.
Q Did you vote in a town? A No sir out in the country.
Q You voted in the country precinct then did you? A Yes sir.
Q Good many colored people in your vicinity? A Yes sir.
Q Did they have a colored precinct? A Yes sir.
Q And you went to this to vote? A I don't exactly know the meaning of precinct.
Q The place to cast your vote, you went to vote did you? A Yes sir.
Q How long did you vote down there until you came here in 1897?
A Yes sir.
Q You never voted in town because you didn't live in any of them?
A No sir never lived there.
Q Lived in the country all the time? A Yes sir.
Q Never did refuse you any right to vote just like anybody else?
A No sir, they claimed that after a man was of age and in the country a certain limit of time he was allowed to vote.
Your vote never was challenged then? A No sir
Q The first time you ever came here was during that payment in 1897? A Yes sir.
Q You never had been here before only when you were a baby? A I hadn't been here since I was carried off by Joel Bryant.
Q What was during the Lightning Creek payment in 1897? A I was here before the payment.
Q How long before the payment? A 5 or 6 months before the payment.
Q Were Kern-Clifton making a roll when you come? A That is what I heard.
Q Did you go before that Commission and ask to be enrolled? A No sir.
Q Did it close before you come? A Yes sir.

Q But you somebefore the payment? A Yes sir.
Q Did you go before ~~the~~ or after that payment? A I come before the payment.
Q I am trying to find out how long before the payment, the payment made, out there at Lightning Creek? A About 5 or 6 months before the payment.
Q Where was your wife? A She was dead.
Q Where did she die? A She had been dead several years.
Q Where were your children after your wife's death? A I kept them with me.
Q You never remarried? A Yes sir.
Q Did you marry the second time in Texas? A Yes sir.
Q Your wife and these children were still in Texas when you come up here just before the payment? A Yes sir.
Q And you never brought her or these children up here until after the payment? A No sir.

BY MR. BLUE:
Q About how long were you in old Mexico all together? A To my best recollection it seems to me that we ought to have been in old Mexico about 8 or 10 years I think.
Q If you were there 8 or 10 years how old were you when you went into old Mexico? A I guess two or three years old.
Q How old? A 3 or 4 or 5 years old.
Q You were big enough to keep the flies off of the old colonel when you were going down there? A Yes sir.
Q What is your best judgment as to how old you were when you got into Mexico? A I think I was between 5 and 6 years old.
Q You say you did vote sometimes in Texas? A Yes sir.
Q About how many years had you been in Texas before you voted, do you remember? A I was in Texas several years before I voted.
Q Do you remember the month in which you returned with your wife and children? A No sir, I don't.
Q Do you remember what season of the year it was when you came back with them? A Yes sir, it was along in the spring of the year.
Q In crop time? A Yes sir.
Q Did you make a crop that year in the Cherokee country after you come up? A No sir I didn't make any crop, I helped the old man to make a crop at home, my best remembarance I think it must have been along about this time when I come back.
Q Along the latter part of May or first of June? A Yes sir.

BY THE COMMISSION:
Q How many years before you came up to the Cherokee nation in 1897 did you see your father? A About 15 years to my best judgment.
Q And where was your father living at the time you saw him? A In Goowoscoowee District up here in the Cherokee Nation.
Q I am talking about down in Texas the last time you saw him?
A On the Hill farm.
Q Was that near Weimar or near San Antonio? A Near Weimar.
Q At that time you had a home of your own, you were married at that time? A Yes sir.
Q You were not living with your father? A No sir.
Q How far from his home were you living at that time? A About 15 or 20 miles.

W I T N E S S E X C U S E D.

ANDY DANIELS, being first duly sworn testified as follows:

BY MR. BULGER:

Q What is your name? A Andy Daniels.
Q Are you some relation to Burrell Daniels? A I am his son.
Q Where were you born Andy? A I was born somewhere about Doaksville.
Q Where is that? A Somewhere on Red River in the Choctaw Nation.
Q How old are now about? A I think I am about 41.
Q Where were you when you can first recollect? A I was in Mexico.
Q What part of Mexico? A I couldn't tell, I have heard.
Q In a town were you? A Yes sir.
Q How long did you stay in that town until you left it? A I was quite small but that time I couldn't really give; I guess it was somewhere along about 5 or 6 years.
Q Where did you go from that town? A To San Antonio.
Q Do you recollect distinctly of arriving in San Antonio? A Yes sir.
Q About what age were you then, how large a boy? A I was getting to be a pretty good size boy I guess.
Q About how old, give your best judgment? A About 10 years old.
Q What did you do, or did you do anything in San Antonio in the way of work? A I commenced working around there in a hotel a little.
Q What did you do in the hotel? A Wash dishes.
Q How long did you wash dishes in a hotel in San Antonio? A I don't know, not very long.
Q Were you living with your father and mother at that time? A Yes sir, they hired me out.
Q When did you leave San Antonio? ~~A~~ And how long after you had been there did you leave the place? A To my best judgment I think we had been there about a year.
Q Where did you go? A Went out west.
Q How far west? A I don't know, 35 miles.
Q Did your family move out with you? A My mother and father went out there.
Q What did you do out there, your mother and father and you?
A My father rented a farm there from a Mr. Johnson.
Q How long did you farm for Johnson? A We made two crops for him.
Q Where did you go from Johnson's? A We came back to San Antonio.
Q When how long did you stay in San Antonio? A I don't think we stayed there much over a year, I think we left there a long in the fall.
Q Where did you start for? A I couldn't hardly tell you, I was pretty young then.
Q Did you go away with the family from San Antonio? A No sir.
Q Where did you go? A I got around there among the boys and stopped there.
Q Did the family leave you? A Yes sir.
Q And when did you next see the family? A It must have been about a year before I saw them.
Q Where did you see them at that time? A There on Hill's place.
Q Where is that place? A On Colorado River close to Weimar, Texas.
Q Did you go down to your parents? A Yes sir.
Q How long did you remain there? A I think I made a crop there, rented a little piece of ground and he furnished me a yoke of cattle and I worked for myself and gather it and I left them there that fall.

Q bout how old were you at t this time? A I don't know.
Q were you a grown man? A I I don't know.
Q W at is your best judgment t of your age at that time? A About 19 years old.
Q Did you go some place from mm that Hill farm? A Yes sir, came up here.
Q Do you remember what year y you come here in? A No sir.
Q What nation did you come to to? A We came to the Cherokee Nation, landed here in Muskogee and and there was a fellow that used to live here by the name of To Tom Windy, and we had enough money to pay him to haul us down to Nivens Valley, my grandmother lived down there.
Q ave you lived in the Chero Cherokee ation continuously since your return? A Yes sir.
Q When you were in Texas did you ever hear your father and mother speak about coming back to the Cherokee Nation? A Ye sir, I have heard them talking lot lots of time.
Q What would they say? A I I have heard the old lady talking about Grand prairie and naming d different places here in the Cherokee ation, how they used to tr travel and how bad they wanted to come back.
Q Have you any recollection a about the date when you arrived in the Cherokee Nation? A No sir. sir.

BY MR. HASTINGS:
Q You don't know what year yo you come here in? A No sir, I don't.
Q You don't know what year th this is? A Well I guess I do.
Q Well tell it? A Looking a at the almanac I suppose it would be about 1905.
Q Do you know how old you were were when you come here? A No sir
Q were you about 21? A No s sir, I was somewhere along about 19 when I come here.
Q Do you know? A No sir, don don't know that hardly.
Q Well did Tom come then? A A No sir.
Q When did Tom first come? A A A He came sometime since then.
Q About what year did he come? A He has been in here 4 or 5 years I guess, as well as I I I can remember.
Q Do you know about how old yo young Burrell H. Daniels is? A I don't know sir.
Q What is your best judgment? ? A I couldn't tell you cause I don't remember when he was born.
Q Do you know where he was bo born? A He was born in Mexico.
Q Do you know how old he was w when you left Mexico? and came over to Texas? A I don't know.
Q Was he a baby? A Yes sir, a pretty good size baby, about 6 or 7 years old I guess, or a little over.
Q When you left Mexico and come come to Texas? A When we left Mexico and come to San Antonio.
Q Burrell was 6 or 7 years old old? A I guess he was, I don't know when he was born.
Q If your father states he was was 6 months old, he is mistaken?
A I don't know, I was just guessing guessing at it.
Q Where was Lizzie born? A She She was born out there at Johnson's.
Q In Texas? A Yes sir, out w went of San Antonio.
Q Where was Jack born? A In San Antonio.
Q Where was Lizzie Waynes born born? A I think she was born out at Johnson's, too.
Q Where was Mary Will born? A A In San Antonio.
Q How old do you say that Lizzie Shafer is? A I don't know sir how old she is.
Q Got no idea at all? A No s sir.

Q Do you know hold old Lizzie Waynes is? A No sir, I don't.
Q Got no idea, none at all? A No sir.
Q But you know that Jack and Mary, and Lizzie Waynes and Lizzie Shafer, those four were born in Texas weren't they? A Yes sir.
Q Did any children die who were born in Texas to your father and mother? A There was my oldest sister died there in San Antonio.
Q Any that was born in Texas, was she born in Texas? A No sir she was born in the nation.
Q Beforethe war? A I don,t know when it was.
Q You were born in the Cherokee Nation but you never was in the Cherokee Nation until you were 19 or 20 years old? A Well I suppose that was my age.
Q You never was here before that? A No sir.

BY THE COMMISSION:
Q Did you go with your father to the Cherokee Nation? A Yes sir.
Q Who was in that party? A Mary, and Jack, Robert, they all came up with him excepting Tom.
Q Tom and his family? A Yes sir.
Q Did your mother come? A Yes sir.
Q What was your wife's name? A Dora Daniels.
Q Is she a state woman? A Yes sir.
Q You married her in Texas, did you? A Yes sir.
Q Did your wife, Dora , come with you and the children? A Yes sir.
Q How many children come with you to the Cherokee Nation? A None.
Q All born in the Cherokee Nation? A Yes sir.
Q How long were you married before you come to the Cherokee Nation?
A Just as soon as we got the crop gathered.
Q Are these children all living? A All living.
Q Your wife doesn:t claim any rights as a Cherokee freedman, does she? A No sir.
Q Whatever rights they claim, they claim through you? A Yes sir.

BY MR. BULGER:
Q Why did you and your father and his family come to the Cherokee Nation when you did come? A He made a kinder of a come out that year with a little money so we could travel.
Q Why had you not come before that time? A Never had been able to , never had made enough to travel any distance, all we could do was to live.
Q How did you happen to come out with more money that year? A I think they made different arrangements in raising the crop and had pretty good luck that year with the crops.

BY THE COMMISSION:
Q Did you always stay with your parents up until the time you were married? A All excepting that year I stopped off in San Antonio
Q were you living with your father when you married? A Yes sir.
Q you and your wife stayed on that same farm with your father?
A Not exactly on that farm but on the same man's farm.

W I T N E S S E X C U S E D.

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JOHN CROSS, being first duly sworn, testified as follows:

BY MR. BULGER:
Q What is your name? A John Cross.

Q Where do you live? A 8 miles east of Fort Gibson.
Q How old are you? A I suppose I must be about 50 years old.
Q What is your business or occupation? A farming.
Q How long have you been farming? A I have been farming all my days.
Q In what country and states have you farmed? A I farmed in Texas the first of my farming was down in Texas.
Q How long did you farm in Texas? A I really don't know just exactly how long I couldn't just get at it, just how long, but it was quite awhile.
Q Did you own a farm in Texas of your own? A No sir.
Q How did you farm? A I worked on the halfers.
Q What do you mean by working on the halfvers? A I mean they furnished everything and give me half of the crop, and would get rations from a commissary, and they get their pay for it out of my part of the crop.
Q To whom did the commissary belong? A To the boss of the place.
Q Did you farm in the same neighborhood in Texas where Burrell Daniels did? A No sir.

W I T N E S S E X C U S E D.

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BURRELL DANIELS RECALLED:

BY MR. BLUE:
Q During the time that you were in old Mexico as you have heretofore stated, did you, at any time, vote there? A No sir.
Q Did you take out any naturalization papers there and become a citizen there? A No sir, never did.
Q Have you ever at any time taken out any naturalization papers and become a citizen of any other state or country then the Cherokee Nation? A No sir.
Q Did you ever vote in Texas? A Never did.

BY MR. HASTINGS:
Q Never voted in the Cherokee nation did you? A Don't know as I ever voted here either.

BY THE COMMISSION:
Q You testified that at Fort Stockton there were several Cherokee slaves there, do you know whether any of them are living now besides those of your own family? A Yes sir, some of them left and went to El Paso.
Q Did any of them ever return to the Cherokee Nation? A Not as I knew of, went to El Paso most of them did.
Q I am asking about these slaves that were with you at Fort Stockton, not a one returned that you know? A No sir.

W I T N E S S E X C U S E D.

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A P P L I C A N T R E S T S.

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R. W. LINDSEY RECALLED:

BY MR. HASTINGS:
Q You are the same witness that was on the stand in this case this

morning? A Yes sir.
Q Is it true that Burrell Daniels life was threatened or that he was compelled by Col. Bryant or any one acting in his behalf to start with him to old Mexico from the State of Texas after the war?

Mr. Blue: I object to that as being incompetent, immaterial, and irrelevant and is calling for a conclusion of this witness and not attempting to get any facts in the case.

A No sir nothing of the kind that I am aware of or ever heard tell of, everything was amicable.
Q Did Burrell Daniels desire to go with Col. Bryant to Mexico?
A Yes sir, he seemed that way.

Mr. Blue: I offer the same objections as above.

Q Was he advised that old Mexico was a free state and was that your understanding at that time? A I don't know what advice but it was understood that Mexico was a free state.
Q Was there any soldiers taken along with Col. Bryant to guard these people to keep them from running away? A No sir.
Q At Fort Stockton were the colored people lined up and compelled to sign agreements and was Burrell Daniels compelled under threat of having his life taken of signing that agreement to pay Col. Bryant for his transportation for himself and family over to old Mexico?

Mr. Blue: I offer the same objections as above.

Q If Burrell Daniels stated that, is that true? A

Mr. Blue: Same objections.

A No sir.
Q Were any threats made against his life at that time?

Mr. Blue: Same objections.

A No sir.
Q The applicant just made a statement here to the effect that Col. Bryant got about 1500 head of cattle and drove them across there into old Mexico, I am frank to say that I don't see that that cuts much figure in this citizenship matter, but I want to ask you if that is true? A No sir

Mr. Blue: I want to object to that for it contains a suggestion of the council, and same reasons as above.

Mr. Hastings: In answer to the above objection council for the Cherokee Nation desire to state that this question is asked purely for the purpose of contradicting the other witness, and while it is upon an immaterial point, yet if this other witness would go so far as to make such an absolute false statement as the one he did make with referance to these cattle, it would be a tendancy to show the Commission and the Secretary of the Interior of the false statement of this witness.

Mr. Blue: In reply I desire to say it is wholly gratuitous for he cannot be impeached upon an immaterial question, and further than that the present witness is quite as impeachable as the other witness.

Q Did he have any cattle other than you said? A No sir, he had a few milk cows and some beef cattle.
Q And you say it is absolutely without foundation? A Yes sir, without foundation and false.
Q And you say it is absolutely without foundation and it is false that he was compelled to go to Mexico or compelled to sign this contract? A Yes sir.

Mr. Blue: I object to that, it is incompetent, immaterial, and irrelevant, is a leading question and I object to it on that ground.

Q Did Col. Bryant have any soldiers along with him at all? A As I said I thought there was 10 or 12 men that some 4 or 5 of them had belonged to some other command, I don't think there was but one man that belonged to his regiment.
Q And they just went along as a party? A Yes they knew him.
Q Did you hear any remark made by Col. Bryant to the effect that Burrell Daniels would be killed and the wolves would eat his bones if he didn't sign that paper at Fort Stockton? A No sir.
Q You were there when it was signed, witnessed it? A Yes sir.
Q You say that Burrell Daniels was given his discharge papers by Col. Bryant a that time? A Yes sir, before he signed the others.
Q Was he told that he was a free man at that time? A He says this is the first act Burrell that you have done as a free man. There was me and a few of the members of Mr. Bryant's family, and about two other men besides myself when it was going on.

BY MR. BLUE:
Q Was there any men of adult age that was along with you at that time that hadn't been in the confederate army? A I don't think there was, there might have been.
Q The fact is that all of these men that were of sufficient age had been in the Confederate services and were all ~~hiding~~ leaving the country because they didn't like to stay here with the Yankees? A well, I don't know.
Q You were leaving for that purpose? A He might have left for that purpose.
Q Your father-in-law and his four sons-in-law all of whom had been in the Confederate army were going to old Mexico? A Yes sir.
Q And Lieut. or Capt. Stewart was along? A Yes sir.
Q And these two officers of his regiment? A No sir, only one officer of his regiment Lieut. Thomas, and Dr. Powell belonged to Col. Bryant's regiment, Capt. Stewart belonged to the First Cherokee regiment.
Q We had some Confederate soldiers along with him? A I don't know whether you would call them soldiers or not.
Q And all these men including your father-in-law and his sons-in-law were along, were they? A Yes sir.
Q And Col. Bryant freed these people at Fort Stockton about 200 miles from any settlement? A Yes sir.
Q And they had no teams or anything of conveyance? A Yes sir.
Q Do you not think, Mr. Lindsey, that it was a very singular proceeding for the former master and owner of slaves at such a place as Fort Stockton, many miles from any settlement in a comparatively desert country and without any means of conveyance or anything to subsist on until they could get to a settlement to go through the forms of releasing them from slavery there, and then ask them to ~~sign~~ sign a contract to work for him in old Mexico until they could pay him a bill for carrying them from Texas over into old Mexico?

Mr. Hastings: Objected to because this question is purely a matter of argument and is not cross examination of any fact of its development.

A From one aspect it would look to be peculiar, but I will state, as I have formerly stated that from the start from Warren, Texas, that with those people it was all entirely amicable and that there was no friction whatever at all existed between Col. Bryant and his slave, Burrell, that there was as mutual understanding as could be between master and slave.

Q Under this contract about which you have testified, which was agreed as I understand it that Burrell Daniels signed by his mark, a contract a recin, to pay Col. Bryant $500.00 for conveying him and his family over to old Mexico from the starting point in Texas? A All correct except the amount, I don't know about that, I don't remember the amount.

Q Were you present when this case was tried in the Mexican or French courts as they had there? A No sir.

Q Do you know anything as to the amount Col. Bryant claimed when he got into Mexico? A I do not know sir.

Q You say under that contract he enforced that contract against Burrell Daniels in Mexico and collected the money on it? A Yes sir.

Q Now you have stated about some cattle, is not it a fact that Col. Bryant, before he started to old Mexico traded some slaves for some cattle? A Yes sir.

Q You know Mr. Baugh? A Yes sir.

Q How long have you known him? A About 51 years nearly.

Q If Mr. Baugh stated in his testimony that Capt. or Lieut. Stewart had a company of 15 or more of men with him there, he was mistaken?

Mr. Hastings: I want to object to that because that is not his statement and the record will not show so, but the record will show that a number of men were along, but therecord will not show that he had a company of men.

Q If Mr. Baugh did state in his testimony in this case today that there were a number of armed men along with this party with Lieut. or Capt. Stewart, in your trip to old Mexico, he was mistaken was he? A Yes there was a number of men along and armed, and Capt. Stewart was along but he had no command and did not act as commander, he was or had been a Captain and was called Captain.

Q If I understood you this morning you stated that all the party that was at Fort Stockton crossed over into old Mexico with you, am I right about that? A About making that statement, I don't remember but about all the party that was at Fort Stockton, not exactly all there was a few that came from Missouri, they joined us but didn't go on to Mexico.

Q Didn't you state this monring that all the party that was at Fort Stockton crossed over into old Mexico? A I don't know whether I did say it or not, I might have.

Q If Mr. Baugh stated on the stand today that a part of the boys of the company that was along in that march from Texas to old Mexico, left it was incorrectly? A Yes sir.

Q There were some men along that didn't have any arms? It is possible, there might have been there was a transient party along.

Q Did your party take any cattle into old Mexico with you? A No sir.

Q Did any parties join your party with some cattle after they started? A Yes sir.
Q Who were they? A Capt. Stewart, Major Hamlin, and a man they called Johnson, and a young man called Poe, and Lieut. Thomas and Dr. Powell.
Q How many cattle did they have? A Something like 200 maybe a little more, or little less.
Q Then after all there was a herd of cattle along there with you besides the cattle of Col. Bryant? A Yes sir
Q You don't know how many head there was of them? A From my best recollection there was some 200 maybe more or less.
Q You don't swear to the exact number? A No sir, I never counted them.
Q Wasn't Capt. Stewart and this man with you before they went back after those cattle? A No sir.

BY MR. HASTINGS:
Q Did Col. Bryant have anything to do with those cattle? A No sir.
Q What relation was that with Indians? A It was a pretty good country for Indians, I recollect once where the Indians run off and left a place.
Q You people went armed as individuals but there was no company of soldiers? A Nothing of the kind.

BY MR. BLUE:
Q Where was that you jumped up these Indians? A Up on the head of what they called Brady Creek.
Q How far was that from Fort Stockton? A Somewahre between 75 and 100 miles.
Q And that was the country in which Col. Bryant freed his slaves?
A Yes sir.
Q Did they have any arms to protect themselves? A I didn't see any.
Q No means of protection or nothing to eat? A I ha e answered that two or three times.

BY THE COMMISSION:
Q How far did you say Stockton was from Chihuahua? A I couldn't say exactly, about 400 miles.
Q How long did it take you to travel from Fort Stockton to that place? A We travelled at the rate of 15 or 20 miles per day, perhaps we were on the road 15 or 20 days.
Q Do you mean that was on the travelled route? A Yes sir.
Q How far has the crow flies, how far is it? A Perhaps I struck off a good deal, about 200 to 250 miles perhaps.
Q There was no railroads at that time? A No sir.

WITNESS EXCUSED.

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BY THE COMMISSION:
As far as the evidence this case is now closed, and the case is submitted on the record. By the consent and stipula-

tion of the parties the case will be written up and briefs will be allowed to be filed by the representatives of the applicant, and the Cherokee Nation then 15 days.

THIS CASE IS NOW CLOSED.

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George H. Lessley, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported the proceedings had in the above entitled and numbered cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H. Lessley

Subscribed and sworn to before me this 15th day of June, 1905.

Edward L. Merrick
Notary Public.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Burrell Daniels, et al., as Cherokee Freedmen, consolidating the applications of:

| | | |
|---|---|---|
| Burrell Daniels, et al., | Cherokee Freedman | R 40, |
| Thomas Daniels, et al., | " " | R 661, |
| Andrew Daniels, et al., | " " | R 396, |
| Burrell H. Daniels, | " " | R 380, |
| Lizzie Haynes, et al., | " " | R 388, |
| Mack Daniels, et al., | " " | R 388, |
| Mary Hill, et al., | " " | R 394, |
| Lizzie Shafer, et al., | " " | R 396. |

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D E C I S I O N.

THE RECORD IN THIS CASE SHOWS: That applications for enrollment as Cherokee freedmen were made by the Commission to the Five Civilized Tribes by Burrell Daniels for himself, his wife, Miranda Daniels, and minor son, Robert Daniels; by Thomas Daniels for himself and minor children, Mary and Lovella Daniels, and minor grandchild, Julia Daniels; by Andrew Daniels for himself and minor children, Willie, Levia, Sadie, Thomas, Burley, Susie, Minnie, Miranda and Mack Daniels; by Burrell H. Daniels for himself; by Lizzie Haynes for herself and minor child, Edward Haynes. Thereafter, on May 14, 1906, there was filed with the Commission, an affidavit showing the birth, on January 29, 1902, of Mack Haynes, child of the applicant Lizzie Haynes; by Mack Daniels for himself and minor child, Rody Daniels; by Mary Hill for herself and minor child, Edgar Hill. Thereafter, on May 14, 1906, there was filed with the Commission, an affidavit showing the birth, on March 10, 1902, of Edgar Hill, daughter of the applicant Mary Hill; and by Lizzie Shafer for herself. Thereafter on June 4, 1906, there was filed with the Commission an affidavit showing the birth, on May 14, 1902, of Arlena Shafer, daughter of the applicant Lizzie Shafer.

THE RECORD FURTHER SHOWS: That, On January 18, 1904, the Commission rendered its decision herein, denying said applicants the right to enrollment as Cherokee freedmen; that on June 24, 1904 (Departmental letter I.T.D. 5040-04), said decision of the Commission was affirmed by the Department; and that, thereafter, on December 12, 1904, a motion for review was filed with the Department, on behalf of the applicants in this case, the same being submitted to the Assistant Attorney-General for his opinion thereon; that, on May 13, 1905, (Departmental letter I.T.D. 5330-05), the Department, in accordance with opinion of the Assistant Attorney-General, rendered May 9, 1905, rescinded its decision of June 24, 1904, and returned the record in this case with instructions to "institute a rehearing in the matter"; and that, on June 8, 1905, further proceedings in the matter of said application were had before the Commission at Muskogee, Indian Territory.

THE EVIDENCE IN THIS CASE SHOWS: That all the applicants herein claim the right to enrollment as Cherokee Freedmen.

The following points in this case are fully established by the evidence, no attempt having been made to disprove them:

(1) That the applicants Burrell and Miranda Daniels, are the parents of Robert, Thomas, Andrew, Burrell H., and Mack Daniels, and Lizzie Haynes, nee Daniels, and Nancy Newton, nee Daniels, deceased; and that all the other applicants herein are descendants of certain of the above named persons, and possess no rights to enrollment as Cherokee freedmen other than as such descendants.

(2) That the applicants, Burrell, Miranda and Thomas Daniels, and Nancy Newton, nee Daniels, deceased, were the slaves of Cherokee citizens at the commencement of the rebellion, and that, after the close of said rebellion, the three applicants first above mentioned returned to the Indian Territory during the following years; Burrell and Miranda Daniels in 1884, and Thomas Daniels in 1897. The said Nancy Newton, nee Daniels, deceased, never returned to the Indian Territory, after the rebellion, she having died in Texas prior to the year 1884.

(3) That all the applicants herein except Burrell, Miranda and Thomas Daniels, were born since the commencement of the rebellion.

(4) That those applicants herein who were in being at the close of the rebellion, together with the said Nancy Newton, nee Daniels, deceased, were taken, by one Joel M. Bryant, from Texas to Mexico during the year 1865, where the said Burrell Daniels and his family remained until about the year 1872, when they removed to Texas and con-

tinuously lived therein till their return to the Indian Territory as above indicated.

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicants, Burrell and Miranda Daniels, with their family, voluntarily accompanied Joel H. Bryant and party from Texas to Mexico during the spring and summer of 1865; that they remained in Mexico till 1872, when they removed to Texas, became domiciled citizens of that state, and continuously lived therein till their removal to the Indian Territory during the years 1884 and 1887; and that none of the applicants herein have ever been admitted or readmitted to citizenship in the Cherokee Nation.

And it is further considered that the evidence in this case shows that upon their return to the Indian Territory, after the rebellion, neither the applicants Burrell, Miranda and Thomas Daniels, nor the applicants herein claiming through them, nor those claiming through Nancy Newton, nee Daniels, deceased, established a residence in the Cherokee Nation, but rather in the Creek Nation, where they continuously resided till subsequent to the year 1896.

None of the applicants herein, nor any ancestor through whom by any possibility they might obtain rights to Cherokee freedman citizenship, can be identified on the Cherokee authenticated tribal roll of 1880, or the Cherokee census roll of 1896.

FINDINGS OF FACT AND CONCLUSION: It is considered that the evidence in this case shows that neither of the applicants, Burrell, Miranda, or Thomas Daniels, nor Nancy Newton, nee Daniels, deceased, became domiciled citizens of the Cherokee Nation within the time specified by the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc. vs. the Cherokee Nation et al., for the return of freedmen to the Cherokee Nation; that all the other applicants herein were born since the commencement of the rebellion, are descendants of the said Burrell, Miranda and Thomas Daniels, and Nancy Newton, nee Daniels, deceased, and possess no rights to enrollment as Cherokee freedmen other than as such descendants.

And it is further considered that, granting that those applicants herein born prior to the close of the rebellion, and the said Nancy Newton, nee Daniels, deceased, were, on or prior to February 11, 1867, domiciled citizens of the Cherokee Nation, they subsequently forfeited their Cherokee citizenship, under the provisions of Section II, Article I, of the Cherokee Constitution, which, in part, provides:

"Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease; . . . . . ."

It is, therefore, ordered and determined that, under the provisions of Section Fourteen of the Act of Congress approved June 28, 1898 ( 30 Stat., 495), Harrell Daniels, Hiram Daniels, Robert Daniels, Thomas Daniels, Mary Daniels, Jennie Daniels, Julia Daniels, Andrew Daniels, Willie Daniels, Lewis Daniels, Jessie Daniels, Thomas Daniels, Perley Daniels, Emma Daniels, Minnie Daniels, Hiyamda Daniels (daughter of Andrew Daniels), Ruth Daniels, Terrell H. Daniels, Linnie Haynes, Edward Haynes, Anna Haynes, Mack Daniels, Rudy Daniels, Mary Hill, Alice Hill, Adrew Hill, Linnie Shafer and Arlena Shafer, are not entitled to enrollment as Cherokee Freedmen, and their applications for enrollment as such are accordingly denied.

(Signed) Tams Bixby
Commissioner.

Dated at Muskogee, Indian Territory,
this May 26 1904.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Burrell Daniels et al. for enrollment as Cherokee Freedmen, consolidating the applications of

| | | | |
|---|---|---|---|
| Burrell Daniels et al. | Cherokee Freedmen | R | 40, |
| Andrew Daniels et al. | Cherokee Freedmen | D | 861, |
| Lizzie Shafer et al. | Cherokee Freedmen | D | 916, |
| Mary Hill et al. | Cherokee Freedmen | D | 917, |
| Lizzie Haynes et al. | Cherokee Freedmen | D | 941, |
| Mack Daniels et al. | Cherokee Freedmen | D | 1088, |
| Thomas Daniels et al. | Cherokee Freedmen | D | 1100, |
| Burrell H. Daniels | Cherokee Freedmen | D | 1101. |

## D E C I S I O N

The record herein shows that applications for enrollment, as Cherokee Freedmen, were made to this Commission by Burrell Daniels, for himself and wife, Miranda Daniels, and minor child, Robert Daniels; by Andrew Daniels, for himself and minor children, Willie, Lewis, Susie, Thomas, Burley, Essie, Minnie, Miranda and Ruth Daniels; by Lizzie Shafer, for herself; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Arlena Shafer; by Mary Hill, for herself and minor child, Alice; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Adran Hill; by Lizzie Haynes, for herself and minor child, Edward Haynes; that, subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission showing the birth of Amos Haynes; by Mack Daniels, for himself and minor child, Mady Daniels; by Thomas Daniels, for himself and minor children, Mary, Louella and Julia Daniels; and by Burrell H. Daniels, for himself.

The evidence shows that the said Burrell Daniels and his wife, Miranda, together with their children, Nancy Daniels, now deceased, and Thomas Daniels, were slaves of Cherokee citizens at the commencement of the war of the rebellion; that during said war they were taken out of the Cherokee Nation and did not return thereto until sometime after the year 1870; that the said Andrew Daniels was born during the war of the rebellion and came to the Cherokee Nation with his father and mother on their said return. All the other applicants herein have been born since 1866 and are descendants of and claim right to enrollment through the said Burrell, Miranda, Thomas, Nancy or Andrew Daniels.

None of the names of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Burrell Daniels, Meranda Daniels, Robert Daniels, Andrew Daniels, Willie Daniels, Lewis Daniels, Susie Daniels, Thomas Daniels, son of Andrew Daniels, Burley Daniels, Essie Daniels, Minnie Daniels, Miranda Daniels, Ruth Daniels, Lizzie Shafer, Arlena Shafer, Mary Hill, Alice Hill, Adpan Hill, Lizzie Haynes, Edward Haynes, Ames Haynes, Mack Daniels, Mady Daniels, Thomas Daniels, Mary Daniels, Lewella Daniels, Julia Daniels and Burrell H. Daniels, as Cherokee Freedmen, should be denied under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby,
Chairman.

(Signed) T. B. Needles,
Commissioner.

(Signed) C. R. Breckinridge,
Commissioner.

(Signed) W. E. Stanley,
Commissioner.

Muskogee, Indian Territory,

this JAN 18 1904

Cherokee Freedman R 40 et al.

DEPARTMENT OF THE INTERIOR

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Burrell Daniels, et al., as Cherokee Freedmen.

Copy, in part, of certain records in the custody of this office.

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" WALLACE ROLL. "

| Office No. | Wallace No. | Names | Age | Sex | Residence |
|---|---|---|---|---|---|
| 2314 | 245 | Daniels, Burrell | 60 | M | Creek Nation |
| 2315 | 246 | " Miranda | 61 | F | " " |
| 2316 | 247 | " Burrell Jr. | 16 | M | " " |
| 2317 | 248 | " Mack | 16 | M | " " |
| 2318 | 249 | " Lizzie | 14 | F | " " |
| 2319 | 250 | " Robert | 12 | M | " " |
| 2320 | | " Mary | 10 | F | " " |
| 2321 | 251 | Newton, Lizzie | 8 | F | " " |

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I hereby certify that the foregoing is a true and correct copy of certain words and figures found on page 109 of the Wallace roll, and that said Wallace roll is now in the lawful custody of this office.

And it is ordered that a copy of said words and figures be filed with and made a part of the record in the consolidated case of Burrell Daniels, et al. Cherokee Freedman R 40 et al.

Tams Bixby.

COMMISSIONER

Dated at Muskogee, Indian Territory,

this SEP 25 1905

Cherokee Freedmen R 40 et al.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Burrell Daniels, et al., as Cherokee Freedmen.

Copy, in part, of certain records in the custody of this office.

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Census of _____ Citizens residing in _____ District, Cherokee Nation, Authorized by an Act of the National Council approved April 18, 1893.

| No. | Name | Age | Male | Female | By whom Identified | Remarks |
|---|---|---|---|---|---|---|
| 96 | Burk Daniels | 40 | * | | Elizabeth C. | Living in |
| 98 | Miranda Daniels | 35 | | * | Thompson | Creek Nation |
| 99 | Burrell Daniels Jr. | 18 | * | | J. Thompson | Never lived |
| 97 | Mack Daniels | 19 | * | | by certifi- | in Cherokee |
| 98 | Lizzie Daniels | 15 | | * | cate | Nation since |
| 99 | Robert Daniels | 12 | * | | | 1881. |
| 100 | Mary Newton | 13 | | * | | Orphan grand- |
| 101 | Lizzie Norton | 10 | | * | | children |
| 102 | Mary Newton | | | | | |
| 103 | | | | | | |
| 104 | Andy Daniels | 24 | * | | | Living in |
| 105 | Willie Daniel | 14 | * | | | Creek Nation |
| 106 | Lewis Daniel | 8 | * | | | |
| 107 | Thomas Daniel | 6 | * | | | |
| 108 | Susan Daniel | 4 | | * | | |
| 109 | Lucie Daniel | 2 | | * | | |

I hereby certify that the foregoing is a true and correct copy of certain words and figures found on Page 4, Cumnins District, Census Roll of 1902, and that said Census Roll is now in the lawful custody of this office.

And it is ordered that a copy of said words and figures be filed with and made a part of the record in the consolidated case of Burrell Daniels, et al., Cherokee Freedmen N 40, et al.

James Bixby.
COMMISSIONER

Dated at Muskogee, Indian Territory,
this SEP 25 1905

Cherokee Freedmen R 40 et al.

DEPARTMENT OF THE INTERIOR

COMMISSIONER TO THE FIVE CIVILIZED TRIBES

In the matter of the application for the enrollment of Durrell Daniels et al., as Cherokee Freedmen.

Copy, in part, of certain records in the custody of this office.

-o-o-o-o-o-

CHEROKEE FREEDMAN PAY ROLL.

| Roll No. | Office No. | Names | Age | Sex | P.O. Address |
|---|---|---|---|---|---|
| 4805 | 4445 | Daniels, Andrew | 32 | M | Coweta Dist |
| 4812 | 4447 | " William, son | 16 | M | " " |
| 4813 | 4448 | " Louis, " | | M | " " |
| 4814 | 4449 | " Tom " | | M | " " |
| 4815 | 4450 | " Susie, dau. | | F | " " |
| 4816 | 4451 | " Rosie, " | | F | " " |
| 4817 | 4452 | " Minnie " | | F | " " |

| | | | | | |
|---|---|---|---|---|---|
| 4801 | 4453 | Daniels, Durrell | 66 | M | Creek Nation |
| 4806 | 4454 | " Durrell Henry | son 18 | M | " " |
| 4807 | 4455 | " Noah " | 16 | M | " " |
| 4808 | 4456 | " Linnie, | dau 17 | F | " " |
| 4809 | 4457 | " Robert, | son 15 | M | " " |
| 4810 | 4458 | Barnes, Mary gr. | dau. 15 | F | " " |
| 4811 | 4459 | " Lizzie " | 13 | F | " " |
| 4804 | 4462 | Daniels, Tom | | M On Orig. | Age |
| | | | | 26 Coo-wee Dist. | |

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(6)

I hereby certify that the foregoing is a true and correct copy of certain words and figures found on pages 161 and 162 of the Cherokee Freedman Day Book, and that said book is now in the lawful custody of this office.

And it is ordered that a copy of said words and figures be filed with and made a part of the record in the consolidated cause of Mitchell Dunlap, et al., Cherokee Freedman # 40, et al.

Jesse Bixby.

Dated at Muskogee, Indian Territory,

this SEP 25 1905

SEP 1901

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, AUG 26 1901, 190.

Received of the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application of Lizzie Shafer for enrollment as Cherokee Freedmen.

Melissa A Smith
Attys for applicant.

Cherokee Freedmen # 2916

Cherokee Freedmen
D-916.

Muskogee, Indian Territory, January 19, 1904.

Lizzie Shafer,

Talala, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 18, 1904, rejecting, among others, your application for the enrollment of yourself and your minor child, Arlena Shafer, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Enc. D-76.
Register.

Commissioner in Charge.

Cherokee Freedmen
D-40 et al.

Muskogee, Indian Territory, January 19, 1904.

Edgar Smith,

Attorney for Burrell Daniels et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 18, 1904, in the consolidated case of Burrell Daniels et al., rejecting the applications for the enrollment of Burrell, Moranda, Robert, Andrew, Willie, Lewis, Susie, Thomas, Burley, Essie, Minnie, Miranda and Ruth Daniels, Lizzie, Edward and Annie Haynes, Mary, Alice and Alvin Hill, Lizzie and Arizona Shafer as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles,

Enc. D-79. Commissioner in Charge.

Register.

Cherokee Freedmen
R-40 et al.

Muskogee, Indian Territory, January 19, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 18, 1904, in the consolidated case of Burrell Daniels et al., rejecting the applications for the enrollment of Burrell, Meranda, Robert, Andrew, Willie, Lewis, Susie, Thomas, Burley, Essie, Minnie, Miranda, Ruth, Burrell H., Mack, Mady, Thomas, Mary, Louella and Julia Daniels, Lizzie, Edward and Amos Haynes, Mary, Alice and Adran Hill, and Lizzie and Arlena Shafer as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. [illegible]

Enc. D-80

Commissioner in Charge.

Cherokee Freedmen
D-40 et al.

Muskogee, Indian Territory, January 19, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Burrell Daniels et al., including the Commission's decision, dated January 18, 1904, rejecting the applications for the enrollment of Burrell, Miranda, Robert, Andrew, Willie, Lewis, Susie, Thomas, Burley, Kasie, Minnie, Miranda, Ruth, Burrell H., Mack, Mady, Thomas, Mary, Lewella and Julia Daniels, Lizzie, Edward and Amos Waynes, Mary, Alice and Adrea Hill, Lizzie and Arlena Shafer as Cherokee freedmen.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Encl. D-81

Through the Commissioner of Indian Affairs.

Refer in reply to the following:

Land.

5520;1904.

COPY.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, June 16, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose, herewith, a report from the Commission to the Five Civilized Tribes, transmitting the record of the application for enrollment as Cherokee Freedmen of Burrell Daniels for himself and his wife Miranda Daniels and minor child, Robert Daniels; by Andrew Daniels for himself and minor children, Willie, Lewis, Susie, Thomas, Burley, Essie, Minnie, Miranda and Ruth Daniels; by Lizzie Shafer for herself and minor child Arlona Shafer; by Mary Hill for herself and minor children, Alice and Adrian Hill; by Lizzie Wayne for herself and minor children, Edward and Amos Wayne; by Mack Daniels for himself and minor child Andy Daniels; by Thomas Daniels for himself and minor children, Mary, Louella, and Julia Daniels, and by Burrell H. Daniels for himself.

January 16, 1904, the Commission found that the applicants were not entitled to enrollment as Cherokee Freedmen.

The evidence shows that the applicant, Burrell Daniels, and Miranda, his wife and his minor child, Thomas Daniels were the slaves of a Cherokee citizen at the commencement of the war of the rebellion; that during the war they were taken out of the Cherokee Nation; that after the war they were kidnapped by one Col. Bryant, and carried into Mexico and sold into peonage; that in 1871 they

were released from servitude and arrived in San Antonio, Texas, during that year; that they did not return to the Cherokee Nation until the year 1884. The other claimants have no rights except as derived from Burrell, Miranda or Thomas Daniels.

Under date of January 16, 1897, this office submitted for reconsideration and approval the Kern-Clifton roll of Cherokee freedmen With reference to Burrell Daniels the office said:-

"Commissioners Clifton and Kern join in especially requesting the Department to place upon the roll the name of Burrell Daniels No.4501, and his family. These Commissioners state as follows:

"It was not in the power of the Commission to do this because the evidence shows that he did not return until 1870 or later, but the evidence also shows that at the conclusion of the war he was sold by his owner, a Cherokee, into slavery in Mexico, and kept there for five years, until by the interference of this government, he was taken from Mexican slavery and at once returned to the Cherokee Nation. He and his family are estimable citizens, and these two Commissioners believe that the Cherokee Nation, whilst not willing to recommend his enrollment, yet would not be averse to having him enrolled."

The same question was raised in this case before Commissioner Wallace, and the facts as stated by these Commissioners and as stated by Mr. Daniels himself in his testimony, submitted by them, are corroborative of the testimony as given before Commissioner Wallace, and upon which, he was enrolled by the Department. While under a literal interpretation of the language of the treaty he might not be entitled to enrollment, it was certainly not the spirit of the treaty to exclude persons of this class."

By letter of January 16, 1897, (Ind.Div.8078-1896) the Department approved the enrollment of Burrell Daniels.

It does not appear necessary to pass upon the question of the

decree of the Chickasaw, Choctaw, Cherokee and Tribes Indians during the period allotted for the return of freedmen to the Cherokee Nation ending February 11, 1867, for the reasons that they do not appear to have made proper effort to return to the Cherokee Nation and claim their rights. On the contrary it is shown that it took them thirteen years from the time of their release from bondage to get to the Cherokee Nation.

In view of the record the approval of the Commissioner's decision adverse to the applicants is recommended.

Very respectfully,

A. C. Tanner,

Acting Commissioner.

EMM

C

W.C.P.

J.P.

WEB

D. C. 21703-1904

I.T.D. 8049-1904.

L R S

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 24, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 19, 1904, you transmitted the record in the consolidated case embracing the applications of Burrell Daniels et al ( I.T.D.-49 et al), for enrollment as Cherokee freedmen, including your decision of January 18, 1904, rejecting said applications.

Reporting June 17, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

1 inclosure.

[redacted] Freedmen
D 816

Muskogee, Indian Territory, June 30, 1904.

Lizzie Shafer,

Talala, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated January 18, 1904, rejecting, among others, your application for the enrollment of yourself and your minor child, Arlena Shafter, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
P 1202, et al.

Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated January 18, 1904, rejecting the applications for the enrollment of Burrell N., Thomas, Mary, Lonella, Julia, Mack, Wady, Andrew, Willie, Lewis, Susie, Thomas, Burley, Essie, Minnie, Miranda, Ruth, Burrell, Miranda and Robert Daniels, Lizzie, Edward and Anna Haynes, Mary, Alice and Adrum Hill, and Lizzie and Arizona Shafer as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 941, et al.

Muskogee, Indian Territory, June 30, 1904.

Edgar Smith,

Attorney for Lizzie Maynes, et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated January 13, 1904, rejecting, among others, the applications for the enrollment of Lizzie, Edward and Ames Maynes, Mary, Alice and Adrem Hill, Lizzie and Arlena Shafer, and Andrew, Willie, Lewis, Susie, Thomas, Burley, Essie, Minnie, Miranda, Ruth, Burrell, Keranda and Robert Daniels, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
R 60, et al.

Muskogee, Indian Territory, July 9, 1904.

William H. Crawford,
Attorney for Darryll Daniels, et al.,
Muskogee, Indian Territory.

Dear Sir:

In accordance with your request there is herewith inclosed to you a copy of the testimony in the consolidated case of Darryll Daniels, et al., Cherokee Freedmen Nos. R 60 and R 200 to R 206, inclusive, together with a copy of the Commission's decision rejecting the applicants, and a copy of the Department's letter of June 24, 1904, affirming the Commission's decision.

Respectfully,

Encl. 7-10

Commissioner in Charge.

COPY.

Cherokee Freedmen

R-396.

Muskogee, Indian Territory, May 31, 1905.

Lizzie Shafer,

Talala, Indian Territory.

Dear Madam:

In the matter of the application for the enrollment of yourself, et al. as Cherokee freedmen, you are advised that the Commission is in receipt of Departmental letter of May 13, 1905, remanding this case for further hearing and readjudication.

You are, therefore, hereby directed to appear before the Commission at its Offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, June 8, 1905, and introduce such testimony as you may desire in support of your said application. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

Respectfully,

(SIGNED) T. B. Needles.

Register. Commissioner in Charge.

COPY.

Cherokee Freedmen

B-40, et al.

Muskogee, Indian Territory, May 31, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

In the matter of the applications for the enrollment of Burrell Daniels, et al, as Cherokee freedmen, you are advised that the Commission is in receipt of Departmental letter of May 13, 1905, remanding this case for further hearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its Offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, June 8, 1905, and introduce such testimony as they may desire in support of their said applications. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

For your information there is herewith inclosed a copy of Departmental letter referred to.

Respectfully,

T. B. Needles.
Commissioner in Charge.

Encl. 2-8.

COPY.

Cherokee Freedmen

R-40, et al.

Muskogee, Indian Territory, May 21, 1908.

Bliss & Bulger,

Attorneys for Burrell Daniels, et al.,

Vinita, Indian Territory.

Gentlemen:

In the matter of the application for the enrollment of Burrell Daniels, et al. as Cherokee freedmen, you are advised that the Commission is in receipt of Departmental letter of May 13, 1908, remanding this case for further hearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its Offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, June 4, 1908, and introduce such testimony as they may desire in support of their said applications. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

For your information there is herewith inclosed a copy of Departmental letter referred to.

Respectfully,

SIGNED. T. B. Needles.

Commissioner in Charge.

Encl. S-L.
Register

COPY.

J.R.W.
W.C.P.
E.V.P.

DEPARTMENT OF THE INTERIOR,

I.T.D.
1706-1905.
9407, 10081-
1904.

OFFICE OF THE ASSISTANT ATTORNEY-GENERAL,

WASHINGTON, May 9, 1905.

The Secretary of the Interior.

Sir:

I received by reference of February 10, 1905, for opinion thereon, the motion of counsel for the Cherokee freedmen for reconsideration of departmental decision of March 22, 1904, approving my opinion of that date, and by reference of February 18, 1905, for consideration in connection therewith, the record in the consolidated case of Durrell Daniels and others ( twenty-eight persons) for enrollment as Cherokee freedmen. The latter case is before the Department upon a motion of counsel for the applicants for review of the decision of the Commission to the Five Civilized Tribes adverse to the applicants.

My opinion of March 22, 1904, was rendered upon departmental reference of a request by the Commission to the Five Civilized Tribes for construction of the freedmen enfranchisement clause of Article IX of the treaty of July 19, 1866 ( 14 Stat., 799, 801):

That all freedmen who have been liberated by voluntary act of their former owners or by law, as well as all free colored persons who were in the country at the commencement of the rebellion, and are now residents therein, or who may return within six months, and

their descendants, shall have all the rights of native Cherokees: Provided, . . . . . .

The opinion referred to, so far as here in question, summarized, was that: (1) The six months period (from ratification of the treaty August 11, 1867,) is not a limitation, but a condition to the right granted, affecting all, competent, or incompetent, and that return within the period therein fixed is an essential part of the facts out of which the right granted arises; (2) That "residents" had reference to the place of the freedmen's legal domicile, and not to that of his then accidental, actual, physical presence or temporary place of abode.

The contention of counsel for the freedmen in the present motion is, that the provision, "and are now residents therein, or who may return within six months," has reference only to "free colored persons who were in the country at the commencement of the rebellion," and has no reference to the former slaves described as freedmen liberated by their owners or by law. This contention is based upon an analysis of the grammatical structure and punctuation of the provision, which I have carefully considered, but deem unnecessary here at any great length to discuss. Grammatical structure and punctuation are both proper aids to construction, but neither nor both combined exclude other inquiry into the legislative intent which must

always control, when satisfactorily ascertained, though both grammatical structure and rules for punctuation be disregarded. By this, however, I am not to be understood as conceding the contention that either the grammatical structure or the punctuation indicates that the six months period had reference to the "free colored persons" only, or did not refer to the liberated former slaves. As to structure of the sentence, it appears to me that the words "as well as" are strongly conjunctive, not disjunctive. The phrase "as well as" is defined in the Century Dictionary and Webster's International Dictionary, at the word "as", as meaning "just as much, equally (with), in addition (to), besides, no less (than)." All these difinitions or equivalents of "as well as" indicate the idea of equality of merit and of benefit, rather than an intent to give more privilege to or to impose less burdensome obligation or condition upon the first class than upon the second. The circumstances of the time were that the former slaves had late been mere things, chattels, not men, and their claim to recognition and just treatment as members of the organized society could hardly have won higher recognition that that given other persons of the same race who had attended to free manhood years before, or even higher that that given the free-born full-blood Cherokee. A construction that would lead to such result is, in light of the circumstances of the time, not

only irrational, but almost unthinkable, and is clearly erroneous.

As to punctuation, had the intention been to confine the operation of the six months return period to the second or free colored person class alone, no punctuation to break the flow of connected thought was necessary or appropriate from its initiation with the words "as well as" until the words "six months", when, on this theory, the thought culminated, was fully expressed, and a natural pause was reached. In fact the punctuation is against the theory sought to be based upon it.

The Cherokee Nation at that time had a constitutional provision (Sec. 2, Art. 1) against their own full-blood citizens, that:

> Whenever any citizen shall remove with his effects out of the limits of this nation, and become a citizen of any other government, all his rights and privileges as a citizen of this nation shall cease.

This provision operated instantly upon the native Cherokee, whenever and as soon as he removed his person and effects from the nation and identified himself with a community alien to it. Had the treaty benefit been limited only to such freedmen, or former slaves as were then in and identified with the nation, the provision would have been as liberal to the freedmen as was the Cherokee constitution toward its own full blood citizens. In giving a six months period for their return

the treaty was more liberal to the freedmen than was the constitutional provision to the native-born. This no doubt was due to the conditions of the time at close of a period of war when social disorder caused many to remove to safer localities. The proper period to be allowed because of such conditions was one to be determined by the treaty parties, but consideration of the circumstances of the time and the provision of the constitution of the Cherokee Nation show that it could not have been intended to give freedmen an unlimited time to return and thus to extend a privilege as to absence far above that of full blood native citizens.

For these reasons, as well as those advanced in my former opinion, I am of opinion that the six months period in Article IX, of the treaty, supra, applies equally to former slaves and to former free persons of color, and adhere to the opinion formerly expressed.

Passing now to the case of Burrell Daniels and others, I desire to call attention to the opinion of March 22, 1904, that "residents" in the treaty has reference to the place of legal domicile, not that of actual accidental presence, and also to my opinion of April 16, 1904 ( in I. T. D. 8308-1903; 799 and 1240-1904), in case of Charles Foreman, in the final paragraph of which it was noticed that "one under actual restraint, whether

legal or not, can not freely choose his own place of abode, or his domicile", meaning thereby his place of usual actual physical presence and place of living. At the time of emancipation of the slaves by the Cherokee Nation, February 1863, referred to by Article IX of the treaty ( 14 Stat., 801 ) the slave became a free man, and the right of choice of domicile arose to him. Under undisturbed conditions the presumption would arise of his domicile at his place of actual residence. The record, however, shows that at the close of the war of the rebellion Daniels was, with some others, in actual servitude. Conditions were not undisturbed. He had been put by his master, under control of insurgent military authority. When the war ceased some of these insurgent organizations or bands went to Mexico, carrying Daniels with them and sold him to Mexicans, where he was held in peonage until his return was affected by intervention of the United States.

It does not appear when Daniels' deportation occured more definitely than that it was after Kirby Smith's surrender ( May 26, 1865 ), and before August 20, 1866, as Colonel Bryant, in command of the force holding Daniels, had been ordered to turn in his camp equipage, but refused to do so, went south through Texas into Mexico, taking with him the negroes and a herd of cattle. By August 20, 1866, the banditti which infested Texas

after the surrender of the organized armies had been suppressed, dispersed, or expelled, and the termination of the period of war was proclaimed ( 14 Stat., 814 ). Colonel Bryant's party was one of these insurgent banditti, and Daniel's removal, deportation into peonage in Mexico, was evidently after the fall of the organized confederate government and surrender of its armies, and was without any semblance of authority of an organized government, but was a mere act of brigandage. It is clear thatDaniel's deportation by brigands and sale into peonage in Mexico and his detention there worked no change in his residence and forfeited no rights. While held in peonage he must be regarded as resident and domiciled in the Cherokee Nation, and his children born there as born in the nation.

The United States interferred in his behalf, effected his release from peonage, and returned him to the United States after about six or seven years of foreign servitude. He was not returned, however, to his home in the nation, but was left in San Antonio, in Texas, about seven hundred miles from the Cherokee country, when no railroads had penetrated those regions or afforded facility for travel. His rights and the consequences of his delay in effecting his actual return from San Antonio to the Cherokee Nation must be determined upon the same principles as the case of a native Cherokee citizen under section 2, Article 1, of the Cherokee Constitution, had a native citizen, at the time

of Daniel's return by the United States to San Antonio, been forcibly taken and set down at San Antonio.

To that time Daniels had been able to do nothing and had done nothing to change his legal domicile from the nation. He had been forcibly and tortiously deported by brigands and sold into servitude. No rights could be lost thereby. In legal aspect he was while in foreign peonage and actual resident of the Cherokee Nation and citizen thereof under Article IX of the treaty. If upon being freed from physical restraint he returned to his home in the nation within such time as was reasonably necessary considering his means and circumstances and the facilities for travel, he should be regarded as never having been absent from the nation. If, on the other hand, he pursued such course as showed an intent to choose a domicile and abide there, his rights should be determined precisely as those of a native Cherokee citizen would be who at that time removed from the nation and took up his residence at San Antonio.

As to what the fact was in this respect I do not regard it proper for me, in the first instance, to find from the evidence in the record, thus forestalling the Commission to the Five Civilized Tribes and the proper reviewing officers whose province it is to adjudge the facts. As the commission did not base their decision upon proper grounds, but based it upon a

supposed bar in Article IX of the treaty against their consideration of these facts, regarding him as not domiciled in the nation on or prior to August 11, 1867, whereas he should be regarded as so domiciled therein, I am of opinion their decision should be vacated, and the case readjudicated under the removal or expatriation provision of the Cherokee Constitution, with liberty on the part of either Daniels of the nation to introduce further evidence bearing upon the question of intention to change his domicile prior to his actual return to the nation.

Very respectfully,

(Signed) Frank L. Campbell,
Assistant Attorney General.

Approved, May 9, 1905:

(Signed) E. A. Hitchcock.
Secretary.

Muskogee, Indian Territory, SEP 25 1905

The Honorable,

The Secretary of the Interior.

Sir:

Receipt is hereby acknowledged of departmental letter of May 13, 1905, (I. T. D. 5330-1905), remanding the record, including the decision of the Commission to the Five Civilized Tribes of January 18, 1904, in the matter of the applications of Burrell Daniels, et al., for enrollment as Cherokee Freedmen, for rehearing and readjudication, in accordance with the opinion of the Assistant Attorney-General, rendered on May --, 1905, wherein it is held that the Commission erred in adjudicating the rights to enrollment as Cherokee Freedmen of the said Burrell Daniels, et al., under the theory that their rights were barred under Article IX of the Treaty of 1866, and that said applicants' rights to enrollment as Cherokee Freedmen should have been adjudicated under the provisions of Section --, Article I, of the Cherokee constitution, which, in part, provides:

> "Whenever any citizen shall remove with his effects out of the limits of this Nation, and becomes a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease;..."

In accordance with said instructions, these applications were set down for re-hearing before the Commission on June 8, 1906, and due notice of said re-hearing was sent to all parties in interest.

On the date set for re-hearing, all parties applicant appeared either in person or by attorney, the Cherokee Nation appeared by attorney, and a re-hearing was had therein and the applications again taken under advisement by the Commission.

There is herewith transmitted the record in said cause, together with my opinion of this date, for further consideration by the Department.

In transmitting this record, I desire to submit my views on the questions of law and fact arising in the adjudication of said applications more fully than they are set forth in the judgment in this cause.

Secretary--3.

The following statement of facts is fully supported by the evidence in this case:

That Burrell, Miranda and Tom Daniels, principal applicants, and Nancy Newton, nee Daniels, deceased, through whom all the other applicants herein claim the right to enroll and as Cherokee freedmen, were, at the commencement of the Rebellion, the slaves of Cherokee citizens; that some time during the summer or fall of 1862, said Burrell, Miranda and Tom Daniels, and Nancy Newton, nee Daniels, deceased, were removed from the Cherokee Nation by one Joel M. Bryant, and, after the close of the rebellion were taken by the said Joel M. Bryant to Mexico, where they remained until some time during the early '70's, when they removed to San Antonio, Texas, and a number of years later removed from Texas to the Indian Territory.

The principal applicants herein allege that they were forced by Joel M. Bryant ( after the rebellion) to make the trip to Mexico; that after arriving in Mexico, they were sold into peonage, and compelled to remain in that country six or seven years; that upon their release from

passage in Mexico they removed to Texas, where, by reason of the condition of their finances, they were forced to remain a number of years, in order to earn money enough to pay their way to the Cherokee Nation, and that, since the close of the rebellion, it was ever their intention to return to said Nation as soon as circumstances would permit. These allegations are denied by the Cherokee nation.

Under this showing attorneys for applicants contend that said applicants have complied with the provisions of Article IX of the Treaty of 1866, which, in part, provides:

> "That all freedmen who have been liberated by voluntary act of their former owners or by law, as well as all free colored persons who were in the country at the commencement of the rebellion, and are now residents therein, or who may return within six months, and their descendants, shall have all the rights of native Cherokees."

Numerous letters and briefs have been filed in this case by the attorneys for applicants, in support of, among others, their contention above indicated. This office refers and calls particular attention to certain parts of said letters and briefs material to the question

now under discussion. In this connection is cited the frequent use, by attorneys for applicants, of the term "poor ignorant people" as designating claimants generally for freedman citizenship in the Cherokee Nation., Aside from the fact that ignorance does not excuse one from compliance with the law, this office advisedly says that the term is a misnomer, and, after several years experience with this class of applicants, it is convinced that they are as fully capable of protecting their own interests as are the Indian citizens of the Cherokee Nation. And the applicants in this case are showing out exceptions to their class.

Several reasons are advanced by their attorneys why said principal applicants should not be required to show that they returned to the Cherokee Nation, after the rebellion, within the time stipulated in said Article IX of the treaty of 1866, as interpreted in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs the Cherokee Nation, et al., but, except the one below discussed, all have been disposed of by the Assistant Attorney-General, in his opinion above referred to.

After asserting that "A slave can have no domicile, inasmuch as he cannot possess one of the requisites, namely, intention", that "A slave had no political rights; 92 U. S. 27", and that "Domicile is a political right", they argue as follows:

> "In the United States a slave was capable of committing crime, of receiving his freedom; of being the subject of homicide, and of modifying, by his volition, very materially, the rules applicable to other species of property. While, under the civil law, slaves were classed among things, and as such, a slave was not considered capable of violating the criminal or civil laws of the country, any more than other domestic animals.
>
> "The modifications placed upon the old civil law theory, were the results, largely, of statutory enactments, since genuine slavery was not known under the original common law. The villiens of the early English times were but feudal tenants of the lowest grade, and were but monuments of Danish tyranny."

From this line of argument they draw the conclusion that:

> "On account of the above named conditions, a slave, emancipated in the United States, acquired the domicile of his owner by operation of law, in the same manner that an infant acquired the domicile of its ancestor, by inheritance." Brief filed with the Department, December 12, 1904.

And again, "When by act of the National Council in February, 1863, the shackles fell from all Cherokee

> slaves, this petitioner became a Freedman, and acquired a right of domicile in some place. From the very nature of the circumstances he must have become vested with the same domicile as his master." Paragraph 1, page 20, Brief filed with the Department, May 6, 1905.

This office is free to admit its inability to follow the reasoning of the attorneys for the applicants, in the extracts from their briefs above set out, but the conclusion reached it can fully understand, and as they cite no authority to sustain their position, it is considered that their conclusion is subject to serious doubt, if not complete rebuttal.

Following the reasoning of attorneys for applicants in this case, the Assistant Attorney-General says:

> "At the time of emancipation of the slaves by the Cherokee Nation, February, 1863, referred to by Article IX of the treaty ( 14 Stat, 801), the slave became a free man, and the right of choice of domicile arose to him. Under undisturbed conditions the presumption would arise of his domicile at his place of actual residence. The record, however, shows that at the close of the war of the rebellion, Daniels was, with some others, in actual servitude. Conditions were not undisturbed. He had been put by his master, under control of insurgent military authority. When the war ceased some of these insurgent organizations or bands, went to Mexico, carrying Daniels with them, and sold him to Mexicans, where he was held in peonage until his return was effected by intervention of the United States." Page 6, Asst. Atty-Gen'l's Opinion.
>
> "To that time Daniels had been able to do nothing,

> and had done not ing, to change his legal domicile from the Nation. He had been forcibly and tortiously deported by brigands, and sold into servitude. No rights could be lost thereby. In legal aspect he was while in foreign bondage an actual resident of the Cherokee Nation and citizen thereof under Article IV of the Treaty. If upon being freed from physical restraint he returned to his home in the Nation within such time as was reasonably necessary, considering his means and circumstances, and the facilities for travel, he should be regarded as never having been absent from the Nation. If, on the other hand, he pursued such a course as showed an intent to choose a domicile and abide there, his rights should be determined precisely as those of a native Cherokee citizen would be who at that time removed from the Nation and took up his residence at San Antonio." Page 8, Asst. Atty-Gen'l's. Opinion.

It is well settled that prior to the rebellion an African, whether slave or free, had no civil, social, or political rights or capacities whatsoever, except those conferred by statute." And, "every attempt to extend to a slave positive rights was an attempt to reconcile inherent contradictions, for, in the very nature of the case, he was subject to despotism. Law, as to him, was only a contract between his rulers;" Bryan v Watson, 20 Ga. 480; ex parte Boylston, 2 Strob. ( S. Car.) 41; Dave v State, 2% Ala. 33; Oliver v State, 39 Miss. 527; Jacobs v State, 2 Humph. ( Tenn.) 493;

Mason v State, 4 Humph. (Tenn.) 421. "He was more property, and in the United States the right of property in a slave was recognized not only in the Constitution, but by every Department of the government, from its foundation to the commencement of the rebellion. The institution was regarded as beyond all cavil entitled to the benefits of all the provisions and guarantees for the protection of any other property". Prigg v Com. 16 Pt.(U.S.) 539; Dred Scott v Sanford, 19 Howard (U.S.) 393; Neal v Farmer, 9 Ga. 555; Rodine's Will 4 Dana, (Ky.) 476; Corbin v Marsh 2 Dev. (Ky.) 193; Thornton v DeHoss 3 Smed.& M; (Miss.) 609; Hondelite v Thurman, 22 Grat. (Va.) 466, 12 Am. Rep. 526.

In view of the foregoing it is quite apparent that any civil, social or political rights African slaves enjoyed in this country prior to the rebellion must have been conferred upon them by statute, and in the absence of any showing that by statutory enactment slaves were granted the right to acquire a domicile by inheritance , or otherwise, or that said domicile was to be that of their masters, it is not unreasonable to presume that such right did not exist, and

that to ascertain the domicile of a slave since freed the same rules of law are applicable as are applicable to any other free person.

Accepting, for the sake of argument, February 18, 1863, as the date upon which Burrell and Miranda Daniels obtained their freedom ( which, however, is error, as at that time said principal applicants were without the jurisdiction of the Cherokee Nation, and, under the law and as a matter of fact, were not free prior to the close of the war), it is considered that any political rights now possessed by them must have been conferred upon them on or subsequent to said date, and as the right of domicile is a political right, their domicile at any time since being freed should be determined in accordance with the law applicable to persons sui juris.

In connection with the foregoing attention is respectfully called to the following authorities, which clearly define the requirements necessary for an adult to establish a legal domicile:

Secretary--11.

"To acquire a domicile two things must concur: (1) A residence; (2) An intention to make it the home of the party." Hart v Lindsey, (17 N. H. 235), 43 Am. Dec. 597;

"Residence and intention to remain must both concur in order to establish domicile". Gilman v Gilman ( 52 Me. 165), 83 Am. Dec. 502; Gavillion v Richard (13 La. 293), 33 Am. Dec. 565.

"To acquire domicile there must be a residence in a place and an intention to make it ones home". Viles v City of Waltham ( 157 Mass. 542), 34 Am. State reports 311.

"Domicile can only be acquired by the fact of bodily presence, coupled with the requisite animus". Jacobs Law of Domicile, Sec 93, page 150

"A new domicile is not acquired by mere intention to so acquire it, without the fact of an actual removal, nor is it acquired by a removal without the intention". Ringgold v Barley ( 5 Md. 186), 59 Am. Dec. 107.

"Intention to reside must relate to the future, and not to the past, where it, combined with residence, is relied upon to establish a domicile". Gilman v Gilman, supra.

Numerous authorities to the same effect could be collected, but it is considered that the foregoing citations are sufficient to show that two things must concur in order to establish a legal domicile: (1) Bodily presence; and, (2) An intention to make it the home of the party. If either

requisite be lacking, or they are not coincident, no domicile is established.

Applying the law of domicile to the facts established by the evidence in the case now under consideration, it will be found that prior to 1884, if then, one or the other of these elements necessary to establish their domicile in the Cherokee Nation, was ever lacking on the part of the applicants. Prior to February 18, 1865, when the principal applicants were bodily present in the Cherokee Nation, they had not the legal capacity to possess one of the requisites, namely, intention, and in so far as this office is able to discover after a somewhat exhaustive research, there is no law, custom or judicial decision to the effect that this intention could have been supplied or exercised by any one for them.

Subsequent to said last above mentioned date, and prior to 1884, while they may have possessed, during all this time, the legal capacity to choose a domicile, the fact remains that they were not bodily present in the Cherokee Nation during said interval; consequently, said applicants

did not, and as a matter of law could not, establish a domicile in said Nation until they were not only bodily present, but legally capable of intending to make that Nation their home, which requisites, as the evidence shows, did not concur prior to the year 1884. Hence, under the law, they did not comply with the provisions of Article IX of the Treaty of 1866, relative to establishing a residence in the Cherokee Nation.

On May 22, 1904, the Assistant Attorney-General, in reply to certain questions submitted to him by the Attorneys for the Cherokee Nation, held that:

> "The period of six months fixed by the treaty is not a limitation upon a right, but a condition qualifying a right given or created by the treaty. It is not in the nature of a condition precedent but essentially part of the facts out of which the right given arises. There is no right independent of the condition imposed. Such limitation affects all alike, competent or incompetent.
>
> "Residence is a word of varied meaning, incapable of accurate definition without reference to the content in which it appears. It is used with equal propriety in the sense of legal domicile, and in that of a temporary place of abode. The context shows that the object of the provision ( Article IX treaty of 1866), was to give the status of citizenship in the Cherokee Nation to classes of persons who before did not have it, many of whom had lately been mere chattels. Its purpose

was to raise persons of inferior or no civil status to that of dignity and of legal equality with the body of citizens.

"I am of opinion that physical return of the person within the time prescribed by the treaty was not necessary in those cases where a domicile theretofore held in the Cherokee Nation had not been abandoned or lost, and that the person might be excused from return by inability or like reasons as prevent loss of domicile by one not actually resident at the place of legal domicile".

This ruling was followed by the Commission in numerous decisions since rendered, and it was ever its understanding that it was incumbent upon freedmen claimants to show that during the interval between the time of obtaining their freedom and February 11, 1867, they, or the ancestor through whom they claim their right, had established a legal domicile in the Cherokee Nation. The question of facilities for travel, financial conditions, distance applicant was removed from the Cherokee Nation, size of his family, and a great many other hindering causes that applicants may now plead, if the new ruling in this case is permitted to stand, were never gone into, but applicant's rights have ever been determined upon, among others, the clear-cut proposition--Were you or those through whom you claim the right to enrollment as a Cherokee freedman, actually present in

the Cherokee Nation with the intention of establishing a residence therein, during the interval between the date of being freed and February 11, 1867? And it is but fair to the Cherokee Nation that this should be the extent of the inquiry along this line.

The Cherokee Nation is not responsible for the existence of conditions that prevented the freedmen from complying with the treaty stipulations of 1866; and, further, if freedmen claimants are permitted to plead the many reasons suggested by the new ruling in this case, as excuses for their non-compliance with said treaty stipulations, the Nation is at the mercy of the freedman applicant, for not only are the majority of these reasons matters peculiarly within the knowledge of the applicant, but, if alleged, as undoubtedly they will be, are at this late date incapable of being rebutted.

Furthermore, this ruling, in effect, removes from Article IX of the Treaty of 1866, the time limit within which freedmen were required to establish their residence in the Cherokee Nation. If the said Act of February 18, 1903, ipso facto, made absent freedmen domiciled citizens of

the Cherokee Nation, what object can there be for investigating the question as to when freedmen applicants or their ancestors returned to the Cherokee Nation and established their residence therein after the rebellion, when the only advantage to be obtained by complying with this provision was to secure a political right which, under the ruling in this case was already theirs?

Under this ruling the only question for investigation and determination would be: Has there been a forfeiture of the rights absolutely conferred by the treaty of 1866, upon those who were the slaves of Cherokee citizens, or free colored persons residing in the Cherokee country at the commencement of the rebellion, and their descendants?

It is for these reasons;

(1) The ruling of the Department is not in accordance with the law; and,

(2) To follow said ruling to its logical conclusion will necessitate the reopening of numerous cases heretofore passed upon by the Commission to the Five Civilized Tribes and the Department and the adoption of an entirely new construction of the law applicable to Cherokee Freedman cases;

that this office respectfully requests that the ruling in this case be reconsidered and the former decisions of the Department in this class of cases be adhered to.

It is however, considered by this office that even though Burrell and Miranda Daniels and family were domiciled citizens of the Cherokee Nation on or prior to Febr ary 11, 1867, they subsequently forfeited their Cherokee citizenship, under the provisions of Section II, Article I, of the Cherokee Constitution, and in this connection attention is called to the following points in this case.

The evidence in this case does not show that Josl M. Bryant refused to turn in his equipage at the close of the rebellion; or that he was at the head of an "insurgent band" or that he or any one of his company, ever stole a bovine in their lives; neither does the evidence show that either or any of them compelled any red, white or black man, woman or child, to accompany them to Mexico, in 1865, or at any other time. All such allegations are based upon the unsupported and uncorroborated testimony of Burrell Daniels.

In re testimony of Burrell Daniels: This applicant seems to have had a wonderful knowledge of his former

master's business- at a time too, when he would have it believed that his commander was engaged in a transaction that required secrecy. He is perfectly familiar with the motive that prompted Col. Bryant to go to Mexico, and testifies positively that Col. Bryant sent certain members of his party, giving their names, from West Texas to East Texas to steal cattle; and that after a short absence they returned with 1500 head; which they took across into Mexico. He further testifies that he never could read or write, but that he, with others, was compelled, at the point of a gun, to enter into a contract whereby they agreed to pay Col. Bryant for their transportation from Texas to Mexico. All of which is denied, and the contrary alleged by the witnesses for the Cherokee Nation, who were members of Col. Bryant's party from Texas to Mexico in 1865.

Attention is further called to the testimony of Purrell Daniels relative to his return from Mexico to Texas. On his first appearance before the Commission he testified that he and his family were released from prison in Mexico through the intervention of President Grant, and that they

were brought from Chihuahua to the Rio Grande by soldiers sent into Mexico to effect their release; that the soldiers paid him $30.00 for services rendered during the trip, and that he and his family immediately thereafter started for San Antonio. On his last appearance before the Commission he omitted the soldier feature of his release and return, and testified that he effected the release of himself and family in Mexico, by laboring until the amount for which he was held was satisfied; that he , leaving his family at Chihuahua, together with Mr. Brown, a lumberman, followed a train of wagons from Chihuahua to the Rio Grande river, where he worked in a mill for ten months, during which time he sent money to his family in Mexico for their support; that finally, he arranged with a man in charge of a Mexican wagon train to bring his family to him, the consideration being $15.00, and that after their arrival, he and his family remained on the Rio Grande river for a while, or until he arranged with the boss of another wagon train to transport himself and family to San Antonio, and that, on their arrival at the latter place, instead of charging him anything for transportation, the man in charge of the train paid him $10.00 , for services rendered during the trip.

In view of the many unreasonable and improbable assertions made by the a plicant, Burrell Daniels, relative to matters that he could have known only by hearsay, or by drafts upon a rather vivid imagination, of which he seems possessed, in connection with the many contradictory statements made by him, it is considered that his testimony is of little value in ascertaining the facts at issue in his case, and that his acts, in connection with certain facts known to this office, will better serve as a guide in determining whether or not it was his intention, after the rebellion, to return to the Cherokee Nation as soon as circumstances would permit.

Burrell Daniels testifies that he knew nothing of the treaty of 1866 prior to his removal to the Cherokee Nation in 1884, hence, it cannot be inferred that during the interval between July 19, 1866, and the date of his removal to said Nation it was ever his intention to comply with its provisions.

The testimony of Burrell Daniels as to dates and places of birth of his children, records of their marriages, and other attendant circumstances, shows that he and his family

lived at least twelve years in Texas; but, after the most thorough examination, this applicant will account for but five and one-half years spent in that state, which, on its face shows an inclination to keep back facts that would tend to show whether or not he intended to make Texas his home.

It is urged by the attorneys for applicants as a reason for Daniels and his family's failure to return to the Cherokee Nation at an earlier date, that their stay in Texas was at a time when no railroads had penetrated these regions (Weimar and San Antonio, Texas), or afforded facilities for travel . This is but a quotation from the Assistant Attorney-General's opinion rendered on May 9, 1905, wherein he says:

> "He (Burrell Daniels) was not returned, however to his home in the Nation, but was left in San Antonio, in Texas, about seven hundred miles from the Cherokee country, when no railroads had penetrated these regions or afforded facilities for travel".

It is a matter of public knowledge that the Missouri, Kansas and Texas railway was built through the Indian Territory to Denison, Texas, during the years 1871 and 1872, and

it is known to this office that this line passes through the Cherokee Nation wit in ten miles of Burrell Daniels' old home on Grand River.

"In 1850, General Sidney Sherman organized, in Boston, Mass. a company for the building of a railroad in Texas. In 1852 the Buffalo Bayou, Brazos & Colorado road was begun, and the shrill whistle of the engine was heard at Harrisburg. The road, in 1859 had reached the Colorado river, only sixty-five miles from its starting point. This was the beginning of the great line now known as the 'Sunset Route' (Southern Pacific)" A new History of Texas, Revised Ed. page 332. (This is the railroad on which Burrell Daniels and his family traveled from San Antonio to Weimar, shortly after their removal from Mexico to Texas).

"In 1848 a charter was granted to the Houston & Texas Central; work was not begun till 1853, and in 1861 not more than eighty miles had been completed. Twelve years later the road reached Denison and became a mighty thoroughfare of traffic.

"Even as late as 1867 the railroads in Texas were few in number and limited in extent, the total mileage amounting to not more than four hundred miles. From 1873 to 1890 there was a wonderful increase; roads sprang up in all directions, new sections were opened and rapidly settled, everywhere the iron horse carried civilization, comforts and luxuries." Ib.

Thus it will be seen that as early as 1873 there was a direct all-rail route from that part of Texas (Weimar and San Antonio), where the Daniels's were located, to within

a few miles of their old home in the Cherokee Nation. This, it is believed, fully settles any question as to the railroad facilities between the Cherokee Nation and Kansas, Kansas, and successfully rebuts any allegations to the effect that such facilities were inadequate.

It is contended in behalf of applicants, that while Daniels and his family were living in Kansas, they were the "victims of the vicious system of share-farming" and that this must be considered as one of the attendant circumstances which prevented them from returning to the Cherokee Nation at an earlier date. Ingrail Daniels testified that he raised four crops in Kansas. The first year he came out in debt. The second year he left the place after the crop was put in. The third year he came out even, and the fourth year he made enough out of the crop to pay up "all our debts and everything and we had enough money to come to Oklahoma." This is the extent of their farming in Kansas, so far as the record shows, and it does not indicate that they were the victims, for any length of time, at least, of the

so-called "vicious system of share-farming", alleged to be at that time prevalent throughout the south.

Another feature established by the evidence in this case, and worthy of comment, is this: The testimony of Burrell Daniels shows that starting from Chihuahua, Mexico, with no financial means, and traveling only by wagon train, the distance between Chihuahua and San Antonio, Texas, 520 miles, was covered by himself and family within a few months, but to cover the distance between San Antonio, Texas, and Muskogee, Indian Territory, 566 miles overland, or 703 miles by rail, required twelve years for himself and a part of his family to make the trip, and for other members of his family it required twenty-four years to reach the Cherokee Nation.

Attention is also called to the fact that the evidence in this case shows that Burrell Daniels and those who returned with him to the Territory after the rebellion, did not settle in the Cherokee Nation, but rather in the Creek Nation, where, as indicated by the Wallace Roll (1869), Cherokee Census Roll of 1883, and Kern-Clifton Roll (1896), they resided continuously for twelve or thirteen years.

The foregoing it is respectfully recommended shows conclusively that neither Burrell Daniels, nor any member of

his family returned to the Cherokee Nation after the rebellion as soon as circumstances would permit, but rather that the return of part of this family to the Indian Territory nineteen years after the close of the rebellion and the return of other members of said family thirty-two years after the war, was due to some cause other than a desire or an intention to save or acquire any citizenship rights in the Cherokee Nation.

This cause is discussed thus in detail because of its great importance to the work of enrollment of the Cherokee Freedmen. This work is at the present time almost completed. It has been attended by many difficulties caused principally by the reason that the facts to be established occurred thirty-five or more years ago, which lapse of time necessarily dims and clouds the memory of the witnesses.

The great bulk of this work was done under precedents and an interpretation of the law entirely at variance with the opinion of the Assistant Attorney-General of May 9, 1905, rendered in this cause, and the confusion which would result from a change at this late date cannot be overestimated.

Already many motions to reopen and reconsider in the light of this ruling cases long since closed, have been

Secretary-26.

filed and many other applicants are only waiting for final decision in this case along the lines laid down in the opinion of the Assistant Attorney-General, supra., to pray for a reconsideration in their cases.

It is therefore respectfully recommended that this matter be again carefully considered in the light of the views herein set forth and that my decision in this case, herewith transmitted, be affirmed.

Respectfully,

James Bixby,
Commissioner

Through the
Commissioner of Indian Affairs

Encl. R 90
LMB

Cherokee Freedmen

COPY.

R-396.

Muskogee, Indian Territory, September 26, 1905.

Lizzie Shafer,

Talala, Indian Territory.

Dear Madam:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 25, 1905, rejecting, among others, your application for the enrollment of yourself and minor child as Cherokee freedmen. There has heretofore been furnished your attorneys, Blue & Bulger, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, was, on September 25, 1905, transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED.

Tams Bixby.

Commissioner.

LS

Incl. 5-47

Register

COPY.

Cherokee Freedmen

R-396.

Muskogee, Indian Territory, September 25, 1905.

Lizzie Shafer,

Talala, Indian Territory.

Dear Madam:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 25, 1905, rejecting, among others, your application for the enrollment of yourself and minor child as Cherokee freedmen. There has heretofore been furnished your attorneys, Blue & Bulger, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, together with the record of proceedings had in the case, was, on September 25, 1905, transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED. Tams Bixby,
Commissioner.

Cherokee Freedmen

R-40, et al.

COPY.

Muskogee, Indian Territory, September 26, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is herewith inclosed a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 25, 1905, rejecting the applications for the enrollment of Burrell Daniels, et al., as Cherokee freedmen.

The decision, together with the record of proceedings had in the case, was, on September 25, 1905, transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

SIGNED.

Tams Bixby.

Commissioner.

LS
Incl. S-49

Cherokee Freedmen

Red, et al.

COPY

Muskogee, Indian Territory, September 26, 1905.

Ryan & Seiger,

Attorneys for Jarrett Perkins, et al,

Tishomingo, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated September 25, 1905, rejecting the applications for the enrollment of Jarrett Perkins, et al, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, together with the papers of proceedings and in the case, was, on September 26, 1905, transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is advised of the same.

Respectfully,

Tams Bixby.

Commissioner.

LS

Encl. Dock

Register

Muskogee, Indian Territory, October 18, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

On September 25, 1905, there was transmitted to the Department the record of proceedings had in the consolidated case of Burrell Daniels, et al., Cherokee Freedman R 40, et al., wherein, in its decision rendered on said date, this office found that the said Burrell Daniels, et al., possessed no rights to Cherokee freedmen citizenship. Said letter set forth the views of this office relative to the law applicable in determining the rights of said applicants to enrollment as Cherokee freedmen.

I now have the honor to direct your attention to certain proceedings had before the Court of Claims, in the case of Charles Journeycake, et al., v. the Cherokee Nation, et al., 31 C. of Cls. 40, and which are considered pertinent to the position taken by this office, and material in de-

termining the rights to Cherokee citizenship of the above indicated applicants.

CHARLES JOURNEYCAKE, PRINCIPAL CHIEF, v. THE CHEROKEE NATION ET AL.
JOHNSON BLACKFEATHER, PRINCIPAL CHIEF, v. THE SAME
MOSES WHITMIRE, TRUSTEE, v. THE SAME.
(Nos. 16837, 16857, 17209. Decided January 27, 1896)."

"On complainant's Motions."

"v. The treaty with the Cherokee Nation, 19th July, 1866 (14 Stat. L., p. 799, Art. IX), provides that the freedmen of the Nation who 'are now residents therein, or who may return within six months, and their descendants' shall be entitled to dwell and occupy land in the Cherokee country. This was intended for the protection of the Cherokee Nation. That is to say, freedmen and the descendants of freedmen who did not return within six months are excluded from the benefits of the treaty and of the decree."

The Reporters' statement of the case:

"The grounds upon which the motions were based will be found set forth in the opinion of the court. After the decision upon these motions had been announced, the counsel for the complainants in the freedmen's case requested that certain instructions be given to the Secretary of the Interior in regard to the payment of the fund. These the court referred to the Secretary for his consideration. Subsequently the court was informed that the Commissioner of Indian Affairs desired the instructions of the court as to how he should proceed under the decree in determining who were the resident freedmen entitled to share in the distribution of the fund. The court accordingly addressed to him the communication of February 18, 1896, which follows the opinion."....

"Court of Claims,
Washington, February 18, 1896.

Hon. Daniel M. Browning,
Commissioner of Indian Affairs.

Sir: The court is informed that the Commissioner of Indian Affairs desires its opinion in regard to the fifth of the proposed instructions referred for the consideration of the Secretary of the Interior February 15, 1896.

"The decree in this case follows and refers to Article IX of the treaty with the Cherokee Nation, July 19, 1866, and the persons therein designated are the complainants in this case, entitled to payment under the decree."

Syllabus.

"The court is of the opinion that the clauses in that article in these words, 'And are now residents therein, or who may return within six months, and their descendants,' were intended, for the protection of the Cherokee Nation, as a limitation upon the number of persons who might avail themselves of the provisions of the treaty; and consequently that they refer to both the freedmen and the free colored persons previously named in the article. That is to say, freedmen and the descendants of freedmen who did not return within six months are excluded from the benefits of the treaty and of the decree."

"The court is also of the opinion that 'this period of six months extends from the date of the promulgation of the treaty, August 11, 1866, and consequently did not expire until February 11, 1867."

"Wm. A. Richardson,
"Chief Justice."

The foregoing is a part of the proceedings had in the case of Moses Whitmire, Trustee, etc., v. the Cherokee Nation et al., and is the interpretation of the Court

of Claims placed upon its decree in said Whitmire case, rendered on February 3, 1896, hence, in legal effect, is a part of said decree.

Paragraph II, Section 21, of an Act of Congress approved June 28, 1898 ( 30 Stat., 495), provides:

> "It (the Commission) shall make a roll of Cherokee freedmen in strict compliance with the decree of the Court of Claims rendered the third day of February, eighteen hundred and ninety-six."

Said Paragrap h II, above quoted, is the jurisdictional act under which this office is making a roll of Cherokee freedmen, and it is respectfully submitted that in view of the foregoing, neither this office nor the Department, has authority to grant the application for the enrollment as a Cherokee freedman of any one who can not show that he , or , in case of one who claims as a descendant, that the ancestor through whom he obtains his right to Cherokee Freedman citizenship, was actually residing in the Cherokee Nation on August 11, 1866, or established a residence in said Nation within six months thereafter.

It is respectfully requested that the letter be

Secretary--5.

made supplemental to, and considered as a part of the record in, the proceedings had in the case of Murrell Daniels, et al., applicants for enrollment as Cherokee freedmen.

Respectfully,

Through the

Commissioner of Indian Affairs. Commissioner.

Cherokee F.
R [illegible]

COPY

Muskogee, Indian Territory, March 18, 1907.

Lizzie Shafer,

Talala, Indian Territory.

Dear Madam:

You are hereby advised that the application for the enrollment of yourself and child, as Cherokee freedmen, was denied, among others, by the Secretary of the Interior, February 28, 1907.

Respectfully,

SIGNED Tams Bixby.
Commissioner.

JMH

Cherokee Y.
R 40, et al.

COPY

Muskogee, Indian Territory, March 13, 1907.

William M. Stevens,
Attorney for Burrell Daniels, et al.,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the applications for the enrollment of Burrell Daniels, et al., as Cherokee freedmen, were denied by the Secretary of the Interior, February 28, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby.
Commissioner.

Encl.H-28
JMH

Cherokee F.
R 40, et al.

COPY

Muskogee, Indian Territory, March 13, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the applications for the enrollment of Burrell Daniels, et al., as Cherokee freedmen, were denied by the Secretary of the Interior, February 28, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED *Tams Bixby.*
Commissioner.

Encl.E-96
JMH

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I.T.D.5464-1907 COPY SPECIAL RJH J.P.

DEPARTMENT OF THE INTERIOR,
LRS WASHINGTON.

DIRECT. February 28, 1907.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

There is inclosed a copy of the opinion of the Assistant Attorney-General of February 27, 1907 approved the same day, in the matter of the application of Burrell Daniels et al., for enrollment as Cherokee freedmen.

In accordance with said opinion the application is denied.

The papers in the case have been transmitted to the Indian Office, with a copy hereof.

Respectfully,

(Signed) Jesse E. Wilson,
Assistant Secretary.

1 inc. and 11 incs.
for ind. Off.
A P Mc
3-1-07

COPY W.C.P.

DEPARTMENT OF THE INTERIOR.
OFFICE OF THE ASSISTANT ATTORNEY-GENERAL.
WASHINGTON.

118-1906.
I.T.D.

February 27, 1907.

The Secretary
Of the Interior,

Sir:

You referred the papers relating to the application of Burrell Daniels et al.,for enrollment as Cherokee freedmen, for opinion concerning questions of law presented by the Commissioner to the Five Civilized Tribes.

This case has been under consideration at various times and in opinion of May 9, 1905, it was recommended that the decision of the Commission to the Five Civilized Tribes, adverse to applicants, be vacated, "and the case readjudicated under the removal or expatriation provision of the Cherokee constitution, with liberty on the part of either Daniels or the Nation to introduce further evidence bearing upon the question of intention to change his domicil prior to his actual return to the Nation." The case was returned to the Commissioner of the Five Civilized Tribes and further hearing was had. The facts developed are substantially that Daniels and other negroes formerly slaves of Cherokees, at about the close of the civil war were taken out of the Cherokee Nation and to Mexico where they were held under the peonage law of that country until about 1872 when they were returned to this country. Daniels

remained at San Antonio and other places in Texas until about 1884 when he returned to the Indian Territory. He claims that he was not before that time able to save enough to carry him to his former home although it wasalways his desire and intention to so return. Upon his return he stopped at Muskogee in the Creek Nation and the date when he actually entered the Cherokee territory is not clearly shown.

The Commissioner of the Five Civilized Tribes held that Daniels was not entitled to enrollment. The Indian Office was of opinion that Daniels and others with him did not use diligence in returning to Indian Territory and are not entitled to enrollment.

The act of April 26, 1906 (34 Stat., 137), provides:

> The roll of Cherokee freedmen shall include only such persons of African descent, either free colored or the slaves of Cherokee citizens and their descendants, who were actual personal bona fide residents of the Cherokee Nation August eleventh, eighteen hundred and sixty-six; or who actually returned and established such residence in the Cherokee Nation on or before February eleventh eighteen hundred and sixty-seven; but this provision shall not prevent the enrollment of any person who has heretofore made application to the Commission to the Five Civilized Tribes, or its successor and hasbeen adjudged entitled to enrollment by the Secretary of the Interior.

Upon the theory that Daniels' departure from the Cherokee Nation was not voluntary it might be held that notwithstanding his removal he still held a legal residence in the Nation. Evidently, something more than constructive legal resi-

dence was contemplated by the act of 1906. It had previously been held that one who had a constructive residence in the Nation, August 11, 1866, was within the terms of the treaty of July 11, 1866 (14 Stat. 801), which provided that freedmen and free colored persons "who were in the country at the commencement of the rebellion, and are now residents therein, or who may return within six months, and their descendants, shall have all the rights of native Cherokees." If it had been intended that this ruling should continue to control there would have been no necessity for further legislation on the subject. The only possible conclusion is that it was intended by the act of 1906 to change existing law as construed and to provide some different and stricter rule to guide in the enrollment of Cherokee freedmen. Evidently, it was intended to require something more than constructive residence. Under the new rule one, to entitle himself to enrollment as a Cherokee freedman, must show that he was actually not constructively residing in the nation August 11, 1866, or that he returned and established in person an actual residence within six months from that date or that he is a descendant of some person who had met those requirements. When this rule is applied to the applicants it seems clear that they can not be enrolled in spite of any equities they may have in the premises.

Nor are they saved by the qualifying clause. While they have met the condition of having made application they have

not been adjudged entitled to enrollment by the Secretary of the Interior.

I am of opinion, and so advise you, that the provision of the Act approved April 26, 1906, prevents the enrollment of these applicants.

The papers are herewith.

Very respectfully,

Frank T. Campbell,

Assistant Attorney General.

Approved:
February 27, 1907,

W. A. Witchcock,

Secretary.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 28 1901

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date June 28 1901

Post Office Tahlequah I.T.

District Cooweescoowee

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

2. Name of wife Liggie Shafer Age 20

Owner's name ..... Citizenship .....

Year Ro. Page 181 No. 4459 District Creek Nation

Parents:

Father Jas Newton Citizenship .....

Mother Nancy Daniels – dead Citizenship .....

Names of Children:

3. ..... Year ..... Page ..... No. ..... Dist. .....

4. ..... Year ..... Page ..... No. ..... Dist. .....

5. ..... Year ..... Page ..... No. ..... Dist. .....

6. ..... Year ..... Page ..... No. ..... Dist. .....

7. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

10. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by WM J Stenographer J.D. Rogers

Dawes

On R.C. roll as Liggie Newton
" Wallace " Page 109 # 2221 – Liggie Newton
Creek Nation

Ref. R40 Aug 1896

Represented by Mellette and Smith

MAR

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Lizzie Shafer,
Talala, I. T.
Cherokee F-D-916
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cher. Fr. R. 397

Cher. Fr. R. 397

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., April 29, 1901.

In the matter of the application of Ruthie Wright for the enrollment of herself and four children as Cherokee Freedmen.

Ruthie Wright, being duly sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Ruthie Wright.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Do you want to enroll anybody besides yourself? A Four children.
Q How old are you? A I am about 42 I guess.
Q What is your post office? A Vian.
Q In what district do you live? A Illinois.
Q How long have you lived in the Cherokee Nation? A I have lived in the Cherokee Nation all my days.
Q Give me the name of your father? A John Wolf they call him.
Q Is he dead? A Yes, sir.
Q How long has he been dead? A He died directly after the surrender.
Q Give me the name of your mother? A Susan Wolf.
Q Is she dead? A Yes, sir.
Q How long has she been dead? A About 10 years as near as I can guess at it.
Q You have been married, have you? A Yes, sir, I am married.
Q How many times have you been married? A Once.
Q Whom were you married to? A Ed Wright.
Q Is he dead? A No, sir.
Q How long since you married him? A About 20 years.
Q Were you ever married except to him? A No, sir.
Q How old is he now? A He is about 40 I guess.
Q Was he ever married except to you? A Yes, sir, his wife died.
Q Died before he married you? A Yes, sir.
Q Was he never married but once before he married you? A Just once before he married me.
Q Did he marry you under a Cherokee license? A No, he is a Choctaw, we didn't have no license.
Q And he does not claim as a Cherokee at all? A No, sir.
Q Has he lived with you in the Cherokee Nation ever since he married you? A Yes, sir.
Q Is there anybody here who knows that he and you have been married? A Yes, sir, Jane Allen.
Q Give me the names of these four children and their ages?
A Henry, he is about 18 I guess.
Q Now give me the next child? A Nora.
Q How old is she? A About 17.
Q Now the next child? A ~~xxxxxxxxx~~.Minnie is about 14.
Q Now the next child? A Anna is about 11.
Q Are these children all living? A Yes, sir, they are all living.

Jane Allen, being duly sworn and examined by Commissioner Breckinridge, testified as follows;

Q Give me your full name? A Jane Allen.
Q How old are you? A Sixty some odd years.
Q What is your post office? A Vian.
Q Do you know this applicant here? A Yes, sir.
Q How long have you known her? A Ever since peace.
Q You have known her nearly all her life then? A Yes, sir.
Q She is married is she? A Yes, sir.
Q What is the name of her husband? A Edmond Wright.
Q About how long have they been married as near as you can come at it? A It has been about 20 years I think.
Q Was she ever married before that? A No, sir.
Q Have they lived together as husband and wife ever since they were married? A Yes, sir, they are living together now.

Q They have a lot of children? A They have these children that she states.
Q How many? A Four.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicants ~~xxxx~~ not identified thereon.
The 1896 census roll of Cherokee Freedmen examined, and the applicants not identified thereon.
The Kerns-Clifton pay-roll examined and the applicants not identified thereon.

Ruthie Wright, called, testified as follows:
Q Now it appears that you are not on any of the rolls, neither you or your children. A It is on the Wallace roll.
Q Didn't you apply to be enrolled in 1880 when they were making that generalroll? A Yes, sir.
Q Why didn't they enroll you? A You kn w we came to this country and stopped over to Fort Gibson, and we lived down in Illinois in Vian, and people claimed we didn't come in time because we didn't stop down there, we were up here, and we missed the enrollment because they claimed we didn't come in time.
Q Your old home, it was at Vian? A Yes, sir, and when we came in we stopped her.
Q How long did you stay at Fort Gibson? A About one year.
Q When was it that you stayed here at Fort Gibson? A My witnesses here can tell you the truth, I have got the witnesses to tell you all about it.

The Wallace roll examined, and the applicants identified thereon as follows:
Ruthie Wright on page 146, No. 3052, Illinois district, as Ruth Wright;
Henry Wright on page146, No. 3054, Illinois district;
Nora Wright on page 146, No. 3053, Illinois district.

Q To whom did you belong before the war? A My m stress name was Mary Bright, Bill Wheeler's sister
Q Where did she live? A I can't remember, my witnesses can tell about it, I was small, ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~ I only know my mistress' name you know.
Q Did your mother come back with you when you came back after the war? A Yes, sir, my mother and father both, they are on the Wallace roll.

Joseph Bruner, being duly sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give me your full name? A Joseph Bruner.
Q How old are you? A I am going on 55 years old.
Q What is your post office? A Benge.
Q How long have you lived in the Cherokee Nation? A Well, I have lived in the Cherokee Nation ever since freedom, it is my home, having made it my home, I have been out of it, backwards and forwards.
Q You have lived here ever since the colored people were set free after the war? A Yes, sir, I came here in 1866.
Q Where did you live before that? A I lived in Fort Smith.
Q And when you came to the Cherokee Nation to what point did you come? A I came right here to this point.
Q You been living here ever since? A No, sir, not right here, I am living now down about Fort Smith in the bottom, been living there for 16 years.
Q So that your knowledge of the Cherokee Nation is from 1866 down to this time? A My knowledge; no I can go back farther than that.
Q How far back can you go? A I can go back to 1851.
Q I thought you only came here in 1866? A Well, I came here since the war.
Q What do you know about the Cherokee Nation in 1851; where were

you then? A I was belonging to Sallie Voe, known as Sallie Vann.
Q Where did she live? A She lived down here in the Choctaw Nation at Pleasant Bluff.
Q How far is that from here A It is about some thirty odd miles I guess.
Q You have some claims then as a Choctaw Freedman? A No, sir, I am a Cherokee Freedman.
Q Have you lived down in the Choctaw Nation; how long did you stay there? A I stayed there three seasons, I made three crops of corn, I was a boy then, and I recollect making three crops of corn there, and he moved, and a man came from Virginia buying cattle around and driving them out to Virginia, and he got Voe then to move down to Fort Smith with his family and keep store for him; he was head clerk in the store, that was about along in fifty something, in 1851.
Q In 1851 then he went down there and he took you with him?
A He carried me with him.
Q And you lived there until you were free? A Until 1861.
Q And then where were you? A I went into the Yankee army on the 4ht of July, 1861, I ran off.
Q And were in the army from that time on? A Yes, sir, until the close of the war and I came home to the nation, here.
Q You came first back to Fort Smith? A No, sir, I came right here to Fort Gibson and voted in the first election in 1867 at Albert Barnes.
Q Do you know this applicant here, Ruthie Wright? A Yes, sir, my sister's daughter.
Q Do you know who she belonged to when the war broke out? A Yes sir, they belonged to Mary Ann Bright in Fort Smith where I lived.
Q When did you first know her mistress, Mary Ann Bright in Fort Smith? A I knew her in 1852; she was a young lady then, and Judge Wheeler was her father, her mother died.
Q And she lived there until the war broke out? A Yes, sir.
Q I am talking about Mary Bright, the mistress? A Yes,sir.
Q She lived in Fort Smith until the war broke out? A Yes,sir.
Q Was this woman living there with her? A This girl belonged to her, but wasn't there at that time.
Q Where was she? A Her father taken her and was dug him a hole in the ground and took her and her mother and lived in the bottom until the Federal army came here in '62, and then came out and made his way north with the army to Fort Scott, this woman's father, John Wolf.
Q He went up to Fort Scott? A Yes, sir.
Q Now then, down to about 1861, this woman, who was a child then, was living at Fort Smith with her mistress? A She was living there with her mistress.
Q And when her father dug that hole in the ground he came to the Cherokee Nation and dug it? A Yes, sir, he came to the Sheppard place, over in the bottom.
Q What do you know about this woman's coming back from Fort Scott?
A She came back inthe year 1865.
Q How do you know that? A I know that because he came to me and told me he was coming to the Nation.
Q Where were you at that time? A I was at Topeka, Kansas, and he came up there.
Q You were in the army up there? A No, sir.
Q What were you doing at Topeka? A I went there right after Price's raid.
Q What were you doing up there, just working? A I was just working around.
Q And her father came up there? A He came up there and to see me and told me he was coming back.
Q He told you he was coming back to the Nation? A Yes, sir, and he did know, because I went to Fort Scott afterwards and he was gone.
Q When did you see him after that? A I saw him in Fort Gibson in 1866 in Buckyhead's store door.

Q This woman was living with her mother Susan at that time, was she? A Yes, sir, this girl was.
Q And she and her mother were both here then in 1866? A Yes, sir.
Q Who were they living with? A They were living down in Sandtown bottom on their own place, a place they have built.
Q Theywere not in town? A No, sir.
Q How far is that place from town, where they were living? A It is four or five or six miles from Vian, down in the bottom.
Q That is where they were living in 1866? A That is where they were living in 1866.
Q How far is Vian from here? A Vian is maybe 32 miles I expect.
By J.S.Davenport, attorney for Cherokee Nation: Which Bushyhead was it you had reference to? A Jesse Bushyhead, the one got killed, brother of Dennis Bushyhead.

Jane Allen, recalled, testified as follows:
Commissioner: How long did you say, when you were testifying justnow that you have known this woman here? A I have known her ever since peace.
Q Where did youfirst know her? A It was down here in this bottom, Gibson botton, her father and mother was down here, they made a crop and then in the fall they gathered the crop and we all moved down to Vian and she has been there ever since.
Q That was in thefall of what year? A I can't tell you what year it was, it was after peace you know.
Q But you don't know what year? A No, sir, not exactly what year it was, but it was just after peace.
Q You first met her in the same year that she lived down there about Vian? A She went with me from here, I was stationed out here to Lewis Downing's place, and we all moved down there and stayed, from about that country, her father and her mother and all the other colored Cherokee, built up that country.
Q And that year ~~what~~ you and her moved down there was the first year you remember her? A I knew her mother from a child, but I didn't know her, this child was born after we parted.
Q Was that the first time you met her mother, after the war, that time you all moved down there together? A No, sir, that wasn't the first time I had met them.
Q I say after the war? A Yes, sir, I met them directly after the war down here in Fort Gibson bottom.
Q And in that same year you and this woman and this woman's mother all went to Vian? A All went down to Vian, we moved there and they have been there ever since, and her mother and father died there, and she married and her mother and father ~~same~~ made her home there, and then it went to the other child when they died, and she has been there ever since she married.
Q That is all you know? A That is all I can give for her any further; it was early after peace.

Commissioner Breckinridge: The applicant applies for the enrollment of herself and four children. She is not identified on the roll of 1880, or upon the Kerns-Clifton roll or upon the census roll of 1896. She is identified on the Wallace roll. Her change of name arising from marriage is established by her own and other satisfactory personal testimony. It appears that she was owned before the war by one Mary Bright, who seems to have lived from 1851 to 1861 in Fort Smith, Arkansas. The applicant claims, however, that she was a Cherokee slave. For the further consideration of her application in the light of the testimony adduced, she will now be listed for enrollment on a doubtful card as a Cherokee freedman.
Of the four children for whom she applies, the first two, Henry and Nora Wright, are identified with her on the Wallace roll, but they are not identified upon the Kerns-Clifton roll

of the census roll of 1896. These children are minors, and are said to be now living, and they will be listed with their mother as Cherokee Freedmen on a doubtful card.

The two younger children, Minnie and Annie Wright, are not of sufficient age to be upon the Wallace roll, and they are not identified upon either the Kerns-Chifton roll or the census roll of 1896. The applicant is desired to supply the commission with certificates of birth of these children, when they will also be listed with her as Cherokee Freedmen on a doubtful card.

***********

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 29th of April, 1901.

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. Oct 1st, 1901.

SUPPLEMENTAL TESTIMONY in the case of Ruthie Wright et al, C. F. N.185

James S. Davenport, attorney for the Cherokee Nation

Notice of taking of testimony, beginning this day at 8 A.M. is filed with the papers in the case and also register receipt from Ruthie Wright. The applicant has been called but is not present and she has no attorney.

SARAH P. NELMS, called and sworn by Commissioner C. R. Breckinridge, testified as follows on the part of the Cherokee Nation:

Q What is your name? A Sarah P. Nelms
Q What is your age? A 57
Q What is your post office address? A Vinita.
Q How long have you lived in the Cherokee Nation? A I think about 30 or 31 years.
( By Mr. Davenport)
Q Where did you live before coming to the Cherokee Nation? A Fort Smith, Arkansas.
Q Where were you at the breaking out of the Civil war? A Fort Smith Arkansas.
Q Did you have any other relatives living there? A My father's entire family was there.
Q Did you have a sister living there named Mary Ann Bright? A Yes sir
Q Did she own any slaves? A Yes sir.
Q Did she own a slave named Ruthie who was a child at that time? A Yes sir.
Q Mrs. Bright was living in Fort Smith Arkansas when the war broke out? A Yes sir.
Q Was she a citizen of the Cherokee Nation? A No sir.
Q She had her slaves there, in Fort Smith? A Yes sir.
Q Have you seen this slave Ruthie since the war? A I don't think I have ever seen her since.
Q Your sister was not a citizen of the Cherokee Nation at the breaking out of the war? A No sir, my father went there during the 40's and my sister lived there up to the breaking out of the war.
(By the Commission)
Q Do you know this applicant, Ruthie Wright? A Only as a child belonging to my sister.
Q You remember that your sister had a child slave by that name? A Yes sir, I remember that.
Q Have you kept acquainted with that child from that time to the present? A I have never seen her since; I don't remember that I have ever seen her since they ran away the first year of the war.
Q How old was she when they ran away? A About ten I think.
Q Did her parents take her away? A Yes sir, the whole family ran off.
Q Do you know where they went? A No sir
Q You don't know anything of her from that time until now? A No sir I heard of her but I don't know anything of her of my own knowledge.
Q Did your sister have more than one slave named Ruthie? A That was all.

* * * * * * * * *

Chas. von Weise, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above case and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this 1st day of September, 1961.

Notary Public

WAIVER AVAILABLE

Cherokee Freedmen D 185

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Ruthie Wright for the enrollment of herself and minor children, Henry, Nora, Minnie and Anna Wright, as Cherokee Freedmen:

D E C I S I O N

The record in this case shows that on April 29, 1901, Ruthie Wright appeared before the Commission at Fort Gibson, Indian Territory, and made application for the enrollment of herself and minor children, Henry, Nora, Minnie and Anna Wright, as Cherokee Freedmen. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 1, 1901.

The evidence shows that at the commencement of the rebellion Ruthie Wright was the slave of one Mary Bright, a citizen of the United States, residing in the State of Arkansas.

The evidence further shows that all of the minor applicants herein are the children of the said Ruthie Wright by her husband, Ed Wright, who claims to be a Choctaw Freedman.

It does not appear from the evidence that any of the applicants herein, or any of their ancestors, were slaves of Cherokee citizens or free colored persons residing in the Cherokee Nation at the beginning of the rebellion, and none of their names are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the application of Ruthie Wright, for the enrollment of herself and minor children, Henry Wright, Nora Wright, Minnie Wright and Anna Wright, as Cherokee Freedmen, should be denied under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

(SIGNED) T. B. Needles.
Commissioner.

C. R. Breckinridge.
Commissioner.

(SIGNED) W. E. Stanley.
Commissioner.

Muskogee, Indian Territory,
this MAR 5 1904

Vinita, Indian Territory, May 22d, 1901.

Mr. Edward Wright,

Vian, Indian Territory.

Sir:-

Receipt is hereby acknowledged of birth certificates in the matter of the applications for enrollment as Freedmen of the Cherokee Nation of your two children, Minnie and Anna Wright. The affidavit as to the birth of Minnie being in due form it will be filed.

The affidavit as to the birth of Anna is returned to you herewith for the reason that when you applied for the enrollment of this child you advised the Commission that she was eleven years of age. In the certificate as to her birth it appears that she was born on the 21st day of December, 1889. It is presumed that she was born on the 21st day of December, 1889. When the correction referred to has been made forward the affidavit to the Commission at Muskogee where it will receive further consideration.

Very respectfully,

Commissioner.

Ins. F.-D.#185.

COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 1902

Muskogee I.T. 3/10/07

Received from the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application of Ruthie Wright et al

for enrollment as citizens of the Cherokee Nation.

Cherokee 20 No. 185.

D. M. Wisdom.

7807

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BREDENBERG,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee F.D-185

Muskogee, Indian Territory, March 16, 1904.

Ruthie Wright,

Vian, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting your application for the enrollment of yourself and your four minor children, Henry, Ewa, Minnie and Anna Wright, as Cherokee Freedmen. There has heretofore been furnished your attorney, D. M. Wisdom, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Register.

Enc. 6-35

Cherokee F. D-185

Muskogee, Indian Territory, March 16,1904.

D. M. Wisdom,

Attorney for Ruthie Wright,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting the application of Ruthie Wright for the enrollment of herself and her four minor children, Henry, Nora, Minnie and Anna Wright, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. Breckinridge

Commissioner in Charge.

Register.

Enc. C-36

Cherokee W. D-186

Muskogee, Indian Territory, March 16, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith transmitted the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting the application of Ruthie Wright for the enrollment of herself and her four minor children, Henry, Nora, Minnie and Anna Wright, as Cherokee Freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. Breathitt

Enc. C-37

Commissioner in Charge.

Cherokee F. D-185

Muskogee, Indian Territory, March 16, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the application of Ruthie Wright for the enrollment of herself, and her four minor children, Henry, Nora, Minnie and Anna Wright, as Cherokee Freedmen, including the Commission's decision, dated March 5, 1904, rejecting said application.

Respectfully,

C. E. [illegible]

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. C-38

DEPARTMENT OF THE INTERIOR,

Refer in reply to the following:

Land.

19280/1904. (COPY)

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, June 18, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith a report from the Commission to the Five Civilized Tribes, dated March 16, 1904, forwarding the record relative to the application of Ruthie Wright for the enrollment of herself and her minor children, Henry, Norah, Minnie, and Anna Wright, as Cherokee Freedmen.

The record in this case shows that Ruthie Wright was at the commencement of the war the slave of Mary Ann Bright, a resident of Fort Smith, Arkansas, and who was not a citizen of the Cherokee Nation. The minor applicants are the children of Ruthie Wright and her husband, Ed Wright, who claims to be a Choctaw freedman.

From this record it does not seem that the applicants or their ancestors were slaves of Cherokee citizens or free colored persons residing in the Cherokee Nation at the commencement of the war. Their names are not found on the 1880 Cherokee roll. It appears to this office that the Commission's decision of March 5, 1904, unfavorable to the applicants is correct, and its approval is recommended.

Very respectfully,

A. C. Tonner,
Acting Commissioner.

GAW-H

I.P.

FHE

DEPARTMENT OF THE INTERIOR,

D.C.21702-1904

WASHINGTON. June 23, 1904.

I.T.D. 5102-1904.

L R S

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

March 16, 1904, you transmitted the record in the matter of the application of Ruthie Wright for the enrollment of herself, and her four minor children, Henry, Nora, Minnie and Anna Wright, as Cherokee freedmen, including your decision of March 5, 1904, rejecting said application.

Reporting June 18, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

1 inclosure.

Cherokee freedmen
D 188

Muskogee, Indian territory, June 30, 1904.

W. W. Hastings,
Attorney for the Cherokee nation,
Tahlequah, Indian territory.

Dear Sir:

You are advised that the Commission's decision dated March 5, 1904, rejecting the application for the enrollment of Ruthie, Henry, Dora, Minnie and Anna Wright as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

Cherokee freedmen
D 126

Muskogee, Indian Territory, June 30, 1904.

Mithie Wright,

Vian, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting your application for the enrollment of yourself and your four minor children, Henry, Nora, Minnie and Anna Wright, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 148

Muskogee, Indian Territory, June 30, 1904.

D. K. Wisdom,
Attorney for Ruthie Wright, et al.,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commissioner's decision dated March 5, 1904, rejecting the application for the enrollment of Ruthie, Henry, Nora, Minnie and Anna Wright as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 28, 1904.

Respectfully,

Commissioner in Charge.

P. & C.D. 56716-1905.
I.T.D. 5102-1904.
11706-1905.

Y.P.
TMS.

LRS.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

December 16, 1905.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

You are advised that a motion for rehearing has been filed with the Department in the Cherokee freedman case of Ruthie Wright, et al. See departmental letter of June 23, 1904.

Respectfully,

(Signed) Thos Ryan
First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

( C O P Y )

Y.P.
LLB

I.T D. 5102-1904
11705-1905
424,723-1906

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

L R S

January 26, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

The Department has considered a motion for rehearing in the Cherokee freedman case of Ruthie Wright et al. and the arguments submitted in connection therewith.

The decision of the Commission to the Five Civilized Tribes approved by the Department June 23, 1904, held that the applicants were not entitled to the benefits of the treaty of 1866, as the principal applicant, through whom the others claim, was not a slave of a citizen of the Cherokee Nation at the beginning of the Rebellion, or a free colored person residing in said nation at that time.

It is stated in the "memorandum of agreement" filed in support of the motion that "It is not contended for the purposes of this petition that your petitioner was the slave of a Cherokee citizen at the beginning of the Rebellion, but she contends that she comes within the class of free colored persons who resided in the Cherokee country at the commencement of the Rebellion and who were residents thereof at the date of said treaty, as mentioned in Article 9 of the Treaty of 1866, and further defined in the "Whitmire" decree."

It is claimed that the record in the case and certain affidavits now submitted show that although the principal applicant belonged to Mary Ann Bright, a citizen of Fort Smith, Ark., she escaped with her father to the Cherokee Nation before the outbreak of the Rebellion, and was at that time residing in said nation, enjoying all the freedom of a free colored person.

As there appears to be no question that the principal applicant continued to be a slave of a citizen of the United States until freed by law, though she may have escaped, just prior to or soon after the commencement of the civil war, from her owner in Arkansas and was in hiding in the Cherokee Nation where she lived, it is asserted, until in 1862, and where she returned in 1866, the motion is hereby denied.

Respectfully,

(Signed) THOS RYAN
First Assistant Secretary

Cherokee Freedmen

R-397.

Muskogee, Indian Territory, February 5, 1906.

Ruthie Wright,

Vian, Indian Territory.

Dear Madam:

You are hereby advised that this office is in receipt of Departmental letter of January 26, 1906, in which the motion filed in your behalf for a rehearing of your Cherokee freedmen enrollment case is denied.

For your information there is inclosed herewith a copy of Departmental letter referred to.

Respectfully,

Incl. 8-11

Acting Commissioner.

Cherokee Freedmen

R-397.

Muskogee, Indian Territory, February 5, 1906.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith a copy of Departmental letter of January 26, 1906, denying a motion filed on behalf of applicants for a rehearing in the Cherokee freedmen enrollment case of Ruthie Wright, et al.

Respectfully,

Incl. S-12

Acting Commissioner.

20 1715

*IN RE*

Application for Enrollment of

INFANT CHILD

*Minnie Wright*

as a citizen of

*Cherokee* Nation.

Approved, *May 17* 1901

*Commissioner.*

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 17 1901

*Asst. Chairman.*

BIRTH AFFIDAVIT. 20

# DEPARTMENT OF THE INTERIOR,

## COMMISSION TO THE FIVE CIVILIZED TRIBES.

*IN RE Application for Enrollment*, as a citizen of the Cherokee Nation,

of Minnie Wright, born on the 18 day of Mar, 1887

(Here insert name of child.)

Name of Father: Edward Wright, a citizen of the Choctaw Nation.

Name of Mother: Ruthie Wright, a citizen of the Cherokee Nation.

Post-office, Vian I.T.

## AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA, Indian Territory. Northern District.

I, Ruthie Wright, on oath state that I am 42 years of age and a citizen, by Freedmen, of the Cherokee Nation; that I am the lawful wife of Edward Wright, who is a citizen, by adoption, of the Cherokee Nation, that a Female (male or female.) child was born to me on the 18 day of Mar 1887 that said child has been named Minnie Wright, and is now living.

her
Ruthie × Wright.
mark

WITNESSES TO MARK

(Must be Two Witnesses) { Neal Glass
Ellen Ponter

*Subscribed and sworn to before me this* 11 *day of* May 1901.

C M Fredricks
NOTARY PUBLIC.

## AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA, Indian Territory. Northern District.

I, Lottie Drew, a Midwife, on oath state that I attended on Mrs. Ruthie Wright, wife of Edward Wright, on the 18 day of March, 1887 that there was born to her on said date a Female (male or female.) child; that said child is now living and is said to have been named Minnie Wright

her
Lottie × Drew
mark

WITNESSES TO MARK:

(Must be Two Witnesses) { Neal Glass
Ellen Ponter

*Subscribed and sworn to before me this* 11 *day of* May 1901.

C M Fredricks
NOTARY PUBLIC.

Muscogee - I.T. - Feb 21 1905

20

*IN RE*

Application for Enrollment of

INFANT CHILD

Anna Wright

as a citizen of

Cherokee Nation.

Approved, June 10 1901

[signature]
Commissioner.

COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 10 1901

BIRTH AFFIDAVIT. 20

# DEPARTMENT OF THE INTERIOR,

## COMMISSION TO THE FIVE CIVILIZED TRIBES.

*IN RE Application for Enrollment*, as a citizen of the Cherokee Nation,

of Anna Wright, born on the 21 day of Dec, 1899
(Here insert name of child.)

Name of Father: Ed Wright, a citizen of the Choctaw Nation.

Name of Mother: Ruthie Wright, a citizen of the Cherokee Nation.

Post-office, Vian I.T.

## AFFIDAVIT OF MOTHER.

UNITED STATES OF AMERICA,
Indian Territory,
Northern District.

I, Ruthie Wright, on oath state that I am 42 years of age and a citizen, by Freedom, of the Cherokee Nation; that I am the lawful wife of Ed Wright, who is a citizen, by adoption of the Cherokee Nation, that a Female child was born to me on the 21 day of Dec 1899 that said child has been named Anna Wright, and is now living.
(male or female.)

her
Ruthie X Wright
mark

WITNESSES TO MARK

(Must be Two Witnesses)

Ed Wright
Henry Drew

*Subscribed and sworn to before me this* 1 *day of* June, 1901.

J. M. Bradley
NOTARY PUBLIC.

## AFFIDAVIT OF ATTENDING PHYSICIAN, OR MIDWIFE.

UNITED STATES OF AMERICA,
Indian Territory,
Northern District.

I, Lottie Drew, a Midwife, on oath state that I attended on Mrs. Ruthie Wright, wife of Ed Wright, on the 21 day of Dec, 1899 that there was born to her on said date a Female child; that said child is now living and is said to have been named Anna Wright
(male or female.)

her
Lottie X Drew
mark

WITNESSES TO MARK:

(Must be Two Witnesses)

Ed Wright
Henry Drew

*Subscribed and sworn to before me this* 1 *day of* June, 1901.

J. M. Bradley
NOTARY PUBLIC.

# AFFIDAVIT.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } ss

In the matter of the application of Ruthie Wright for enrollment as a Cherokee Freedman.

No. F. D. 185

Henry Pack of lawful age, being duly sworn on oath states that on the 10 day of September, A. D. 1901, he registered to Ruthie Wright whose postoffice is Vian Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto attaches the receipt of the Postmaster at Fort Gibson Indian Territory; and that on the 23 day of September, 1901, he received the return card which is hereto attached, signed by the said Ruthie Wright, showing that he had received said notice.

Henry Pack

Subscribed and sworn to before me on this the 23 day of Sept A. D. 1901.

J C Starr
Notary Public.

MY COMMISSION EXPIRES
MAY 26th, 1902.

[redacted]

# NOTICE!

*IN THE MATTER OF* the application of Ruthie Wright
for enrollment as Cherokee citizens:
Case No. D 185
To Ruthie Wright

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of [redacted] Indian Territory, on Oct. 1st 1901 [redacted] or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 10 1901

L B Bell

[redacted]

Attorneys for the Cherokee Nation.

Allen, Jane

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date April 29, 1901

Post Office Vian, I. T.

District Illinois

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

1 X Name of wife Ruthie Wright Age 42

Owners name ..... Citizenship .....

Year Wallace Page 146 No. 3052 District Illinois

Parents:

Father John Wolfe (dead) Citizenship .....

Mother Susan Wolfe " Citizenship .....

Names of Children:

2 X Henry Wright Year Wallace Page 146 No. 3054 Dist. Illinois 18

3 X Nora " Year Wallace Page 146 No. 3053 Dist. " 17

4 X Minnie " Year [illegible] Page [illegible] No. [illegible] Dist. [illegible] 11

5 X Anna " Year [illegible] Page [illegible] No. [illegible] Dist. [illegible] 11

6. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by Ruthie Wright Stenographer B. C. Jones

No 1 on Wallace Roll as Ruthie Wright

Nos 4 and 5 Birth certificate required.

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mrs. Ruthie Wright,
Vian, I.T.

Cherokee F-D-185

Register.

Reg 37/39

FEB 25 1905

Department of the Interior.
Commission to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, $300.



REGISTERED
MAR 19
MUSKOGEE, IND. TER.

Ruthie Wright,

Vian, ~~Indian Territory.~~

Cher. Fr. R. 398

See Cher. Fr. R. 399

Cher. Fr. R. 398

Filed with William Holt, Rejected Cherokee Freedman.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., June 10th, 1901.

In the matter of the enrollment of Tecumseh Holt for enrollment as a Cherokee Freedman; she being sworn by Commissioner T. B. Needles, testified as follows:

Mallette & Smith attorneys for applicant:
W. W. Hastings for the Cherokee Nation.

Examined by Com'r Needles,-

Q What is your name? A Tecumseh Holt.
Q What is your age? A About 50.
Q What is your posterrice address? A Vinita.
Q In what district do you live? A Goowoeskoowee.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Have you ever applied to be enrolled as a Freedman of any other tribe or Nation? A No sir.
Q Who do you want to have enrolled besides yourself? A Just myself.
Q Have you been recognized by the authorities of the Cherokee Nation as a Cherokee freedman? A I guess so.
Q Is your name on any of the rolls of the Cherokee Nation? A No sir
Q Never drew any money from the Nation? A No sir.
Q What is your father's name? A They tell me he was named Fox Holt
Q What is your mothers name? A Easter Holt.
Q Is she living? A Yes sir.
Q Are you a brother of Joshua Holt? A Yes sir.
Q Where were you born? A In Flint district.
Q Were you a slave? A Yes sir.
Q To whom did you belong? A William and Nellie Holt.
Q Were they Cherokee citizens? A Yes sir.
Q Were you taken out of the Cherokee Nation during the war? A Yes sir
Q Where to? A Fort Scott Kansas.
Q When did you return after the war to the Cherokee Nation? A To Big creek Cherokee Nation.
Q When? A In '66.
Q Have you lived here ever since? A Yes sir.
Q Are you married? A Yes sir.
Q Who is the mother of the boy William Holt you wanted to apply for and who is now of age? A A state woman.
Q Were you ever married to her? A Yes sir.
Q When? A In '72.
Q Where? A At Oswego Kansas.
Q Have you a certificate of your marriage? A No, sir, I have it, I forgot it.
Q Where was your son William born? A On Cedar Creek.
Q Has he always lived in the Cherokee Nation? A Not all the time, he works out some.
Q Where is he now? A Kansas.
Q Is he living there now? A Works there.
Q Did you ever work in Kansas yourself? A Yes sir.
Q How long did you live in Kansas? A I have worked there 2 or 3 months at a time.
Q Who did you come here with in '66? A With my mother Easter Holt.

By Mr. Smith of counsel for applicant-

Q How old are you? A About 50.
Q Were you born a slave? A Yes sir.
Q Do you remember when you first came back to the Cherokee Nation after the war? A I remember a little something about it, just that it was in '66.
Q Who did you come here with? A Uncle Andy Dougherty and my mother and two brothers, Jim and Joshua.
Q Are you a sister of Easter Holt who applied for enrollment this

morning? A Yes sir.
Q And a brother of the Joshua Holt who applied this morning? A Yes sir.
Q Where do you live now? A At Vinita.
Q How long have you lived there? A Since 1885.
Q Are you married? A Have been.
Q When were you first married? A In '75.
Q Where did you marry them? A In Oswego.
Q Kansas? A Yes sir.
Q Do you remember when it was that you first went out of the Indian Territory after you become big enough and after you had come back with your mother and brothers to the Cherokee Natich? A Yes sir it was in the winter of 74.
Q Where did you go then? A To Oswego Kansas.
Q Was that the time you were married? A No sir that was before I was married.
Q Before? A Yes sir.
Q What business or work did you follow there? A Making mortar and carrying brick.
Q A day laborer? A Yes sir.
Q You were in Kansas in '74? A Yes sir in the winter.
Q How long did you stay there before you came back to the Cherokee Nation? A I went there in December or January and I lived there until the 24th of March '75.
Q You were there how many months? A A little over 3 months.
Q Where did you come from there? A Went to Parsons then and staid a months.
Q Where did you come from is what I asked? A The Cherokee Nation.
Q Did you work in Parsons? A No sir.
Q When did you next come back to the Cherokee Nation? A I staid there a month and came back and worked on the road.
Q What road? A The railroad, the M.K.& T.
Q How long did you work on the railroad? A 2 or 3 years, not steady, but most of the time.
Q What were you doing on the railroad? A With the Section gang.
Q Where was your headquarters then? A Parsons Division run from Parsons into the Territory?
Q Where did you next go out of the Cherokee Nation after that? A I have been out several times since then, but I have never lived outside of the Territory; have never owned anything out of the Territory.
Q What have you in the Cherokee Nation? A Nothing but a farm on the Public Domain.
Q How long have you had that farm? A 5 or 6 years.
Q Did you ever own any other farm prior to that one? A Yes sir, the first one was 8 or 9 years ago, and thatsown a man claimed it and I gave it up.
Q Did you ever own any before that? A No sir that is all the farm land I ever owned.

By Hastings:

Q [illegible] You were in Fort Scott Kansas during the war? A Yes sir.
Q And your mother was named Easter Holt? A Yes sir.
Q Do you know Jim Foreman? A No, sir.
Q Never saw him in Fort Scott Kansas? A No sir.
Q Do you know Simon Mahoney? A No sir.
Q Never saw him in Fort Scott? A No sir not as I know of.
Q You were old enough to remember years when you first came down her? A I knowed the years when I heard them said by anybody.
Q That is the only way you know what you came back in it? A Yes sir
Q What time of the year did you come down? A Warm weather.
Q In August? A Yes sir I think so.
Q Your mother testified you came with Andy Daugherty? A Yes sir.
Q In a wagon? A Yes sir.
Q And Andy had a family already when you came? A Yes sir.
Q

Q Who were some of his neighbors? A Martha Daugherty, Ruben Johnson, Anderson Johnson.
Q Was Peter Ward there? A I never seed him.
Q You gotacquainted with him afterwards? A Yes sir.
Q Andy Dougherty had a place there at that time did he? A Yes sir.
Q Had he a crop of corn in? A Yes sir, a little.
Q You remember he had some? A Yes sir.
Q How long had Andy been there when you come? A I dont know.
Q As much as two years? A I cant say.
Q Never told you that he had been there that long did he? A No sir.
Q Had he been to Fort Scott before that? A He never lived at Fort Scott.
Q You never saw him at Fort Scott during the war? A No sir not till he come for us.
Q Did your father come with you? A No sir.
Q You all moved into Andy's house? A Yes,sir.
Q You and your mother and brothers didn't live off in a separate house? A No sir.
Q Just lived in the same house? A Yes sir.
Q Whom did you do gor a living? A Lived on what we could get.
Q Did you work for anybody? A No sir, worked for uncle Andy some but didn't get paid for them, didnt go out to work for anybody else.
Q Did you ever work for anyone else after that while you were living there? A Yes sir.
Q Went to making ties for some timber men.
Q How long was that after you came down there? A 3 or 4 years.
Q Was that the first work you did after you came down here? A First that I got paid for.
Q Did your brothers work for your uncle when you did? A He wasn't there he was off at work.
Q In Kansas? A I dont know.
Q Where was your mother? A I left her there when I went away.
Q How long had she been living there before you went away? A 3 or 4 years.
Q Were you in Fort Scott Kansas in '67, 8 and 9? A No sir.
Q Wasn't your mother living there then? A No sir.
Q Where was she then? A On Big Creek I said.
Q Where was your brother Joshua then? A He was there some of the time and some of the time I dont know where he was.
Q You swear that you were never back to Fort Scott from '66 until 74? A Yes sir I am swearing aint I?
Q You never was in Kansas at all between those dates? A Yes sir I was in Kansas.
Q Where? A Oswego.
Q I thought you said you never was in Kansas again until '74? That is the first time I was in Kansas.
Q Is that the first time that you ever went back there after you came down here with your mother and brothers in '66? A Yes sir I believe it was.
Q Are you positive? A I think I am.
Q Were you ever in Fort Scott between '66 and '74? A Not that I know of.
Q Are you positive of that now? A No sir I am not, but I don't think I was.
Q Your mother used to live in the Government building there didn't she? A Not as I know of.
Q You were married in Oswego you say? A Yes sir in '75.
Q When did you first move to Vinita? A Went there in '75.
Q When did you commence keeping house in Vinita? A In 89.
Q After the Wallace court? A No sir I was there before that, but I lived with my sister.
Q What is her name? A Bettie Kirk.

Q Did you have your wife with you? A No sir.
Q Where was she? A In Missouri, never would come here.
Q Where was that son you spoke of? A With her.
Q When did he come down here? A In '91 and he couldn't stay and I sent him away.
Q Did your wife ever come to the Territory? A Yes sir in 76.
Q When did you separate from her? A I suppose when she wouldn't come down here.
Q When was that? A In '76, long in the last part.
Q When was this boy of yours born? A In '76, in May.
Q He was a baby when you and your wife parted? A Yes sir.
Q You separated from her that fall? A Yes sir.
Q And she has never been here since? A Yes sir she was here but wouldn't stay.
Q Have you been living for the past ten years in Vinita? A Yes sir.
Q Never back to Kansas in that time? A No sir.
Q What did you do there in Vinita? A Worked.
Q Who for? A Worked for Mr. Ratliff a while.
Q When? A In '92.
Q Do you know Jim Martin on Big Creek? A No sir.
Q Are there any Cherokees there that you do know? A No sir, never saw many there.
Q Did you live with your mother before the war? A Lived with my old master.
Q Did your mother live with your old master? A Yes sir.
Q That was in Flint district? A No sir I was born in Flint, but we lived at Webbers Falls.

Applicant not found on the 1880, 1896, Kern Clifton or Wallace roll.

By Com'r Needles,- Tecumseh Holt applies for himself, he is not found on any of the rolls of the Cherokee Nation; he avers that he is the child of Easter Holt and a brother of Joshua Holt, and the said Joshua Holt has this day been listed for enrollment on Freedman Doubtful card #644 and the testimony taken therein is hereby referred to and a copy thereof will be filed with this case and made a part of the record herein. The said Tecumseh Holt will be listed for enrollment as a Cherokee Freedman on a doubtful card for the further consideration of the Commission and he will be notified of the final decision of the Commission in regard to this case when the same as arrived at.

Chas. von Weise, being sworn, states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause, and that the foregoing is a full true and correct transcript of his stenographic notes therein.

Signed, Chas. von Weise

Subscribed and sworn to before me this the 25th of June, 1901, at Nowata, I.T.

Signed, T. B. Needles,
Commissioner.

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Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., June 10, 1901.

In the matter of the application of Joshua Holt for the enrollment of himself, wife and six children as Cherokee Freedmen; being sworn and examined by Commissioner Needles, he testified as follows:

Appearances:
Mr. Smith, of Mellette & Smith, for applicant;
Mr. W. W. Hastings, for the Cherokee Nation.

Q What is your name? A Joshua Holt.
Q How old are you? A 52.
Q What is your postoffice address? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A Wallace and Clifton.
Q Not on the roll of 1880 then? A No sir.
Q Who do you want to enroll besides yourself? A My mother first.
Q Well the second? w My wife, and children and seal.
Q Where is your mother? A She is out there.
Q She can appear for herself? A She is so old she don't have any recollection, I think she is pretty near a hundred years old, and not able to give in hardly.
Com'r; You can let your mother come and apply, and you can be a witness for her.
Q Your wife and children, you say? A Yes sir.
Q What is your wife's name? A Jane Gold.
Q How old is she? A 52.
Q What are the names of your children? A Laura Holt.
Q How old? A 19.
Q Next one? A Ella Holt, 15.
Q Next one? A Jessie Holt, 10, Willard Holt, 9; Clifford Holt, 6, Marcella, three months old.
Q That's six children? A Yes sir.
Q Are these children all living at this time? A Yes sir.
Q Living with you? A Yes sir.
Q What was your wife's father's name? A Anderson Johnson.
Q Was he a Cherokee Freedman? A Yes sir.
Q When did he die? A About 20 years.
Q What is her mother's name? A Dinah.
Q Is she living? A No sir.
Q Was she a Cherokee Freedman? A No sir.
Q Is your wife's father's name on the roll of 1880? A No, sir.
Q You say your name is on the Kern-Clifton roll? A Yes sir.
Q Is it on the Wallace roll? A Yes sir.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
Page 147 #3639, Josh Holt, Cooweescoowee District;
Page 147 #3640 Laura Holt, Cooweescoowee District;
Page 147 #3575 Jane Holt, Cooweescoowee District;
Page 147 #3641 Ella Holt, Cooweescoowee District;
Page 147 #3642 Jessie Holt, Cooweescoowee District;
Page 147 #3643 William Holt, Cooweescoowee District.

Q You didn't draw for Clifford did you? A No, sir.

Wallace roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
Page 117 #2476 Josh Holt, "District,Fort Scott,Kansas."
Page 117 #2477 Jane Holt, "[illegible]Fort Scott,Kansas."
Page 117 #2478 Laura Holt, "Fort Scott,Kansas."

ESTHER HOLT, being sworn and examined by Com'r Needles, testified as follows:
Q What is your name? A Esther Holt.
Q How old are you? A Along about 35.
Q What is your postoffice? A Vinita.
Q What district do you live in? A Cooweescoowee.

APPLICANT re-called, and further examined:

By Mr. Smith:

Q How old are you? A 52.
Q Where do you live? A Vinita, Indian Territory.
Q Were you born a slave? A Yes sir.
Q Who was your owner? A Bill and Nellie Holt.
Q Were they Cherokee Indians? A Cherokees by blood.
Q Were they citizens of the Cherokee Nation, Indian Territory?
A Yes sir.
Q Where were you when the Civil War commenced? A I was at Webbers Falls, Cherokee Nation.
Q Did you go out of the Cherokee Nation during the war? A Yes sir.
Q Where did you go? A Fort Scott, Kansas.
Q When did you return to the Cherokee Nation first after the war?
Q '66, in August.
Q Who was with you? A Andy Dougherty, my mother and two brothers.
Q What was your brother's name? A Tecumseh Holt and James Holt.
Q Where is James Holt? A I have not saw James Holt for twenty years.
Q You don't know where he is? A No sir.
Q Where is Tecumseh Holt? A He is here somewhere.
Q Where does he live? A Vinita.
Q Whatx is your mother's name? A Esther Holt.
Q What was your father's name? A Jonas Pack.
Q Where did he die? A He died when the emigrants left this nation going to California abut 1849.
Q You spoke of your mother and yourself and brother Tecumseh and another brother named James, coming here to the Cherokee Nation after the war in '66, where did you come to? A Came to Big Creek.
Q Near what point as the country is developed now? A I don't understand you.
Q I mean to say at what point on Big Creek did you come? A Near about in the settlement you have reference to?
Q Yes? A Up there about where Reuben Hohnson lives and Mike Whitmire.
Q Near what place is that now? A It was on George Duffin.
Q I mean as to what postoffice is it now? A Near Edna,Kansas.
Q How far is it from where Hayden is now? A I don't know, Hudson may be closer I think, Hudson postoffice is nearer than Edna Kansas.
Q You think it is nearer what is now Hudson? A Yes sir.
Q How long did you live there at that place you have mentioned?
A I lived there off and on and go there and work and come back again.
Q Well you were then about how old? A I can't tell exactly how old I was about that time.
Q Were youmarried? A I was unmarried at that time.
Q When did you marry? A I married in 1899.
Q Were you ever married before that? A No, sir.
Q You were a single man from '66 up to '99? A Yes sir.
Q You mean '99, three years ago? A 1889.
Q Then you were mistaken when you said 1899? A Yes sir, I was mistaken.
Q Where are these children, Laura Holt, Ella Holt, Jesse Holt, Willard, Clifford and Magnolia? A They are living in Vinita.
Q How long have they been living there? A They have been living in Vinita I guess for 12 or 13 years.
Q They are living with you? A Yes sir.
Q You stated that you worked around from place to place, where was your mother after you come back the Cherokee Nation? A She was there sometimes and she worked off sometimes and worked and come back again.
Q Where does your mother live now? A Vinita.
Q How long has she been living at Vinita? A I guess 13 or 14 years.

Q Was your mother a slave? A Yes sir.
Q Who did she belong to? A Bill and Nellie Holt.
Q The same persons you have mentioned in your own testimony?
A Yes sir.
Q Where was your mother when the Civil War commenced? A Webbers Falls, Cherokee Nation.
Q Did she or did she not go out at the same time you did? A She went out the same time I did.

Examined by Com'r Needles:

Q Do you live in Vinita? A Yes sir.
Q Why didn't you appear before the Commission at Vinita when we were there? A My mother was sick and she wasn't able to get there; that's just the reason I didn't appear at that Commission.

By Mr. Hastings:

Q Your present wife is the only wife you have ever had? A Yes sir.
Q You testified that you married her in 1889? A 1889.
Q Your oldest child is 19 years of age, you have given, Laura?
A Yes sir, she is my step-child, my wife's child, Laura and Ella both.
Q Didn't you apply for your daughter Laura and Ella to be put on the Kern-Clifton roll? A I applied for them, yes sir.
Q Did you then say anything about their being your step-children?
A I think I did, I am not certain.
Q What was your wife's maiden name? A Jane Johnson.
Q Where was she born? A Big Creek, Indian Territory, Cooweescoowe District.
Q How old is she? A I think she is now about 38 years old, 30 or 32.
Q Who was her father? A Anderson Johnson.
Q Who was her mother? A Dinah Johnson.
Q Where did you marry her? A Cooweescoowee District, Big Creek.
Q Who married you? A Peter Meigs.
Q Does she claim to be a Cherokee Freedman? A Yes sir.
Q Freed woman? A Yes sir.
Q Did she apply before to the Kern-Clifton Commission? A Yes sir.
Q By what name? A In 1896?
Q Yes, sir? A Jane Holt.
Q Where did you move to Vinita from? A I was living at Big Creek, and I went up to Ft.Scott I think that was in 1888, and went from there to Vinita just before the Wallace Court.
Q But you came from Ft.Scott down to Vinita? A Yes sir.
Q Did you bring your wife with you? A Yes sir, we was up there working, I hadn't moved up there.
Q But your wife was with you? A Yes sir.
Q What was you doing up there? A I was cooking up there.
Q Who for? A Man named W. H. Robinson.
Q He was living there was he? A Yes sir.
Q Colored man? A No, sir, he was a white man.
Q How long had you been in Fort Scott when you came to Vinita?
A 1888 I believe it was '88 or 9!
Q I say how long had you been up there when you come down to Vinita? A I don't know just how long.
Q Well about how long? A I can't tell you. I came back before the Wallace taken the census.
Q You don't know how long you had been up there? A Not exactly.
Q About how many years? A I can't tell you, I don't know.
Q You can make some sort of an estimate? A Well, about, up there a year, not quite a year.
Q Were you up there more than a year? A I don't think I was.
Q Hadn't you been up there ever since 1865? A U p in Ft.Scott?
Q Yes. A Why certainly not.
Q Then you deny positively that you were there more than two years?
A Yes sir, I do, at a time.
Q Where was your oldest child, Jesse born? A Jesse was born

in Vinita.
Q Have you been living in Vinita since 1889? A Yes sir.
Q All the time? A Except when I was out working.
Q Where were you out working? A I was out at Lawrence, working and I was at Paola and Imwas at Weir City, Kansas, working.
Q Where~~xxxxxxxxxx~~ else were you working? A I worked there at Chetopa.
Q Working in Fort Scott? A Since '89?
Q Yes? A I don't think I have.
Q How much of this time since 1889 have you actually resided in Vinita up there personally present? A I have been there pretty regular ever since 1892.
Q How many years? A Well all the way along
Q Have you been there now for the past nine years all the time, continuously? A Yes sir, except when I was working out I tell you.
Q I want to know how much time you have been working out? A I could not tell you that, because I don't know, but altogether wouldn't make a year.
Q Where was your wife at that time, in Vinita all this time? A She was in Vinita.
Q She never went out with you when you worked out? A Not since 1889 she hasn't
Q Where was this next child Willard born? A In Vinita.
Q Where was the next, Clifford? A In Vinita.
Q Where was Maucella born? A Vinita.
Q All four of these children were born in Vinita were the? A Yes sir
Q Who did you come down to the Cherokee Nation with after the war?
Q Andy Daughterty.
Q Didn't Andy Daugherty have a place down there when you came?
A Yes sir.
Q He had a house up? A Yes sir.
Q He had a patch of corn in? A Had a little corn in.
Q When you come? A Yes sir.
Q Who else had a house down there when you come? A I think uncle Mike Whitmire had a house and Reuben Johnson had a house.
Q George Duffin? A I think so, I am not certain.
Q Was Uncle Peter Ward living down there then? A I don't know.
Q Was Reuben and Tuck Sanders? A Yes sir.
Q Did they have small crops of corn too? A I wasn't on their place, would see them passing back and forth, I guess they lived there.
Q Didn't all these people that you have mentioned have corn?
A I don't know; Uncle Andy Daugherty did, and I believe Whitmire did.
Q What time did you come there? A In August.
Q How long did you remain when you came in August? A I must have stayed there about six or eight months before I went away.
Q Where did you go to? A I think I went to Lawrence I believe.
Q Where was your mother at that time? A When I left I left her on Big Creek, at Andy Daugherty's.
Q She came down with you did she? A When she first came from Kansas you mean? Yes.
Q How long did she stay down there? A I don't know how long she stayed altogether.
Q How long did she stay before she went back? A She probably stayed a year.
Q Then she went down to Ft.Scott? A Yes sir, and worked a year and come back again.
Q Did she keep house up at Ft.Scott? A She was working around there, she used to keep house.
Q You lived with her up there, and your brothers? A Yes, we kept house up there in '94 and 5.
Q You didn't live in a Government building up there? A I didn't.

Q Did your mother? A Not as I know of.
Q You didn't live with her up there? A I was with her up there, in '64 and 5.
Q After that time were you with her? A I was with her at the Daugherty's when she was there.
Q Were you with your mother in '66 in Kansas? A I would see her up there when I was working up there and she were working up there.
Q Did you see her in Ft.Scott,Kansas? A Yes, sir.
Q What year was that? A I can't tell you.
Q Did you see her in '66? A We come down here in '66.
Q Did you see her in Ft.Scott,Kansas, in '67? A I think she remained there all that time.
Q Did you see her,in Ft.Scott Kansas in the year '67? A No sir.
Q Did you see her in '68 in Ft.Scott,Kansas? A Yes sir. She was there working in '68.
Q And you were there? A I think I come through Lawrence and I see her first one place and another.
Q And where was your brother, Tecumseh? A I think he was living up there.
Q You never made a home in Kansas? A No sir.
Q Never had one? A Yes sir, I built one about two years ago.
Q You never had one on Big Creek? A No sir, I come there with my uncle and never made a home until 3 years ago, I built a home two years ago.
Q You never had a separate house there on Big Creek? A No sir.
Q I want to know where you lived from '66 to '89? A Sometimes I lived on Big Creek, in 1885 I lived on Andy Daughterty's, and went to Vinita.
Q Where was your mother then? A She was at Daughterty's.
Q How much of this time has she lived at Daugherty's? A I don't know.
Q You know Jim Foreman? A I do.
Q Did you ever know him in '68? A I knew him there in '64 and '5.
Q Do you know Simon McKinsey? A I did.
Q Did you know him in Ft.Scott,Kansas? A Yes, sir.
Q When did you know him? A '64 and 5.
Q Did you know him about '66? A I saw him after '66.
Q Did you ever see him about '66? A I saw William Foreman, I don't think I saw Simon.
Q When was the last time you saw William Foreman in Ft.Scott,Kansas?
A I don't remember.
Q Did you see him during the year of '66, '67, '68 or '9?
A I didn't see him in '66 and I never saw him in '68 or 9.
Q Did you see him in '68? A No sir.
Q Were you in Ft.Scott during either of these four years?
A I think I were there in '68.
Q Where was that? A I think I worked there in '68 a little while.
Q Was your mother there then? A I believe she was.
Q Your brother Tecumseh? A I don't think he was.
Q Where was your brother Tecumseh? A I think he was on Big Creek, with Uncle Andy.
Q Was your brother married? A Yes sir.
Q Where did he marry? A In Oswego,Kansas.
Q State raised woman? A Yes sir.
Q When? A Married in 1875.
Q What did you do down here in '66? A I didn't do nothing in '66, there was nothing down here to do.
Q Nothing in '67? A I went out and worked; I never worked in here in those days.
Q You never made a crop in the Cherokee Nation? A No sir.
Q Your mother there never kept house here separate? A No sir.

By Com'r Needles:

Q Is Jane your first wife? A Yes sir.

Q Had she been married before she married you? A I don't know; if she had I didn't know it; she had these children.
Q What are the children's names? A Laura and Ella Beason.
Q Where were they born? A Big Creek.
Q Big Creek in the Cherokee Nation? A Yes sir.
Q Is that where you married her? A Yes sir.
Q You mentioned about working in Kansas backwards and forwards, did you have your family with you while working in Kansas?
Q My family was with me up there in Fort Scott, yes sir.
Q You worked in Ft.Scott and your family was with you? A Yes sir.
Q How long was that? A I can't tell you exactly, we went there in '89 I think it was, and we went back before the Wallace Court.
Q Did you ever have your family working out with you after that?
A No, sir.
Q Since the Wallace roll then has your family always lived at Vinita? A Yes sir. Except when my wife was out visiting; she went to Linn County, Kansas, once to see her grandmother, and took her children, and she went to Chetopa to see her people.
Q How long did she remain at those places? A I think she remained in Mound City, Kansas, ten days, and I don't know how long she stayed at Chetopa.
Q Before she went there was she keeping house at Vinita?
A Yes sir.
Q When she went up with these children did she abandon the house?
A I was at the house.
Q Did she take household forniture with her? A Didn't take anything but a few clothes in a valise.
Q Did she come back to the same house? A Yes sir.
Q And were you there? A I was there.
Q Jane your wife is a daughter of Dinah Johnson? A Yes sir.
Q Is Dinah living?, A No sir, she is dead.
Q Andrew living? A He is dead.

By Mr. Smith:

Q You say it was in 1889 that you went to Ft.Scott,Kansas after you were married? A Yes sir.
Q And that you came back before the Wallace court? A Yes sir.
Q Now up to 1889 you were unmarried, had you ever married before 1889? A No sir.
Q What has been your home up to the time you were married?

Mr. Hastings: I want to enter an objection to that: you ask him where he has lived; the home is a legal proposition: let the facts be developed and let the Commission and others decide about that question.

Mr. Smith: That is immaterial.

Q Where did you stay, where did you live up to the time you were married? A I lived on Big Creek.
Q At whose house? A At Andy Daugherty.
Q Was he related to you? A My uncle.
Q What is your occupation, you spoke of working? A I am a cook, and I am a painter.
Q Now after you married and after 1889 you were asked when you first built a home, do you mean by that that you now own your own home, or what do you mean? A Yes sir, I own my own home now.
Q Had you any home place to keep house to live in before you built that two years ago? A I was renting a house to live in.
Q Where? A Vinita.
Q What kind of work did your mother do? A She was washing out and sometimes cooking.
Q Did you have sisters? A Yes sir.
Q What were you sister's names? A Sallie and Bettie.
Q What is Bettie's name now? A Bettie Hicks.
Q Who was she married to? A Dennis Hicks.
Q Up to the time she married Dennis Hicks what was her chief

occupation? A She worked around hotels and such work as that. Hired out.

Q Do you know of your own personal knowledge when she came back to the Cherokee Nation, or not? A No, sir, I don't.

Q Do you know of your own personal knowledge when Sarah came back?

A No sir.

Q You know whether they were slaves before the war? A Yes sir.

Q Who did they belong to? A Bill and Nellie Holt, same man I did.

By Com'r Needles:

Q You say you were living on Big Creek? A Yes sir.

Q No town there? A No sir.

Q Were you a farmer? A No sir.

Q What occupation was you following on Big Creek? A My uncle was a farmer and I was living with him, and I worked out there, working, and come back there for my uncle.

Q How long did you live there? A I pulled out from there in '85.

Q You made that your headquarters then? A Yes sir.

Q Your uncle was a farmer? A Yes sir.

Q You didn't pretend to farm yourself? A No sir.

By Mr. Hastings:

Q How many brothers did you have? A Had four, three besides mysel

Q And your mother? A Yes sir.

Q And you all made your Uncle Andy Daugherty's place your headquarters? A Not all of us, I had one brother that never came there at all.

Q Your two brothers and your mother and yourself? A Yes sir.

Q You never livedin separate houses? A No sir.

Q Where was your sister Bettie married? A She was married in Vinita.

Q When? A I don't know how many years ago it has been since she got married.

Q Since you came there? A Since I have been in Vinita, yes sir.

Q Hadn't she ever been married before? A No sir, not to my knowing.

Q Where did she come from when she come to Vinita? A I don't know, she wasn't with us; she had been working down about Gibson, and places around there.

Q Your sister older than you? A Yes sir.

Q Where is she living? A In Vinita.

Q How long has she been living there? A I don't know.

Q Since or before you moved there? A She has moved there since I moved there.

Q Where did she come from? A She had been working down about Ft. Gibson I believe, or Tahlequah, I don't know whether she come from there or where.

Q When was the last time you saw her in Ft.Scott? A I don't know.

Q Since the war? A I think I have, but I am not certain.

Q Not positive? A No sir.

Q She didn't live with you there in '67, 8 and 9? A No sir, she never did live with me.

Q You know where she married? A No sir.

Q Did she marry a state raised man? A I don't know whether the man was a state raised man or not, I couldn't tell anything about that.

By Comr Needles:

Q Now as to your wife, you say her father's name was Anderson Johnson? A Yes sir.

Q And her mother's name was Dinah? A Yes sir.

Q Were they slaves? A Yes sir, both of them.

Q Who did they belong to? A Anderson Johnson belonged to a Cherokee named Sam Johnson, and my wife's mother belonged to a man named Chandler, in Arkansas.

Q In Arkansas? A Yes, sir.
Q Slave of an Arkansas man? A Yes sir.
Q Her father was owned by a Cherokee? A Yes sir.
Q And his wife was owned by a citizen of the State of Arkansas?
A Yes, sir.
Q Did your wife's father and mother go outside of the Cherokee Nation during the war? A Yes sir.
Q When did they return? A They moved to Big Creek in '66.
Q How do you knew? A Iwwas there, I lived close to them.
Q Was Jane born after that or before? A She was born after they moved there.
Q I forget whether you stayed your wife's father and mother were both living or not? A They are both dead.
Q Your wife Jane been living in the Cherokee Nation ever since '66? A Yes sir, except when she was just out visiting.
Q Except when she was out with you? A Yes sir.
Q You don't know whether she was married before you married her or not? A No sir.
Q You know she had these two children? A Yes sir.
Q Are these children living with you now? A Yes sir.

By Attorney Smith:

Q You know who was the reputed father of these two children? A Man said to be named Oscar Beason.
Q Is he living or dead? A Last I heard of him he was living.

By Com'r Needles:

Q Colored man? A Yes sir.

By Mr. Smith:

Q Where is your wife? A I don't know whether she is in the crowd or not, she is here in camp somewhere.
Q Have you a certificate of your marriage to her? A No sir, I just married by a preacher.
Q Who married you? A Peter Meigs.
Q Is he livingxxx or dead? A He is dead.
Q Is there anyone around the camps who saw you married? A The family was there; her two sisters were there, and I was to have them here, but they went to Fort Gibson.
Q There is no one here that saw you married? A No sir.

By Mr. Hastings:

Q How long had you known your wife before you married her? A I knew her from achild.
Q You know whether she lived with this man as husband and wife by whom she had these two children? A I know she lived with him, I don't know whether they were married or not.
Q How long did she live with him? A She may have lived with him four or five years.
Q She lived with him from the time she gave virth to the first one until she gave birth to the last one? A Yes sir.
Q Lived in a house together with him? A Yes sir.
Q You don't know whether they were married or not? A No sir, I don't.
Q You liedd at Webbers Falls when the war came up? A Yes sir.
Q You went out north? A Yes sir.
Q Who did you go with? A Went out with the soldiers, soldiers come there at night and taken us out.
Q Were you living with Will and Nellie Nola at Webbers Falls?
A Yes, sir.
Q Did they have children? A Yes sir.
Q What were their names? A Tempy Whitmire, Johnson Whitmire's wife.
Q How far did you live from Webbers Falls? A I lived about a mile and a half on the other side of Webbers Falls.

APPLICANT'S MOTHER re-called, and further examined:

By Mr. Hastings:

Q Aunty, where do you live now? A Vinita.
Q Who do you live with over there? A I live with my son.
Q What is his name? A Tecumseh Holt.
Q Tecumseh got a wife? A Yes sir, he has got a wife.
Q What is her name aunty? A Named Sarah Holt.
Q Got some children? A Got one.
Q How old is it? A I don't know.
Q About how old, is it a child grown? A Yes sir, it is grown.
Q Is the child married? A No.
Q Boy or girl? A She is a girl.
Q Where did Tecumseh marry? A I don't know, I am forgetful, my head is not right.
Q You wasn't there? A No sir.
Q Now aunty, you come from Ft.Scott down to Vinita didn't you?
A Yes sir, when I did come down there.
Q Now Aunty, when did you come down there, how many years ago?
A My brother went up there and brought me down and three boys; went to get provisions, everything was very scarce down here at that time, and he brought me and the children down here; he said they were going to make a treaty and he brought us down.
Q And you come did you? A Yes sir, I come in his wagon.
Q Did he have a house here at that time? A Yes sir.
Q He had a little field? A Yes sir, small field.
Q What was your brother's name? A Andy Dougherty.
Q There was many other people living around in the neighborhood were there? A Yes sir.
Q About what time of the year was it, April, May, June, July, August, September, spring, winter, summer, or what? A It has been so long I don't remember.

By Com'r Needles:

Q Warm weather or cold? A I don't know whether it war warm or cold.

By Mr. Hastings:

Q How long had your brother been living down here when you came?
A I don't know, he was living down here and had his house built when he brought me down.
Q Been living here a year or two? A Maybe longer and maybe notso long, I don't know.
Q How long did you stay down here with your brother at that time?
A When he brought me down?
Q Yes? A I stayed a year or two, I don't know.
Q Then youwent back to Ft.Scott, did you? A Yes sir, I went back to Ft.Scott.
Q What were you doing up at Ft.Scott? A Working around, trying t o make an honest living.
Q You lived in a Government building didn't you aunty? A Yes, I rented up there, took in washing.
Q Before the war? A After the war.
Q Did you know James Foreman? A No, sir.
Q How long was it until you come down to visit your brother again did you ever see him any more? A After I went up there?
Q Yes? A Yes sir.
Q How long was it until you saw him again? A Five or six months, maybe seven or eight, I don't know.
A You never had any home down here? A No, I made my home with him.
Q Whenever you came? A Yes sir.
Q Where were your boys when you went back up to Ft.Scott, were they up there with you? A Josh was cooking somewhere.
Q Was he cooking up there? A (No reply).
Q Did Josh ever have a wife before he got this woman, live with another woman as his wife? A Not that I know of.
Q Never had no children by any other woman? A Not as I know of.
Q You were living up there in Ft.Scott when the Wallace payment

was made wasn't you Andy? A No sir.
Q Where were you? A I don't remember.
Q Where were you? A I don't remember.
Q How long did you live up there at Ft.Scott after the war?
A I can't tell you.
Q You spent pretty near all your days haven't you aunty, up to the Wallace court? A No, sir.
Q Did you work any down here before the Wallace court? A No sir, I haven't worked before the Wallace court, I have never been able, broke up with the rheumatism.
Q About all the work you done was in Kansas? A I couldn't get no work here to do.
Q I say about all the work you done was in Kansas? A No, not all that I done.
Q Who did you work for down here before the Wallace court? A Oh I went around waiting on women, and come home and set down and laid down; when I was called I would go.
By Mr. Smith:
Q How old are you, Aunt Esther? A About 85, that's the age they give me, I don't know my age; I was 16 years old the time the stars fell and the commissioners have been trying to get my age from that, I don't know.
Com'r Needles: That was in '32 when the stars fell; I was there myself and saw them fall.
Q What was it you said about having rheumatism? A I said I have rheumatism so I can't do very much.
Q You live with one of your sons? A I live with Tecumseh.
Q Were you a slave before the war? A Yes sir.
Q Who did you belong to? A William Holts and Nellie Holts.
Q Were they Cherokee Indians? A Yes sir.
Q Where did they live? A Webbers Falls.
Q How many children had you at the time the war commenced, besides Joshua? A Sallie and Betsy and Mosie and Joshua.
Q And who do you live with now? A I live with Tecumseh.
Q Was Tecumseh born before the war or after? A Before the war.
Q Is Bettie married now? A Yes, sir.
Q Who is she married to? A Dennis Hicks.
Q Where is she living? A In Vinita.
Q What is Sallie named? A Sallie Miller, she married a man named Miller.
Q And lived at Vinita? A Yes, sir.
Q Were these children whose named you gave born slaves? A Yes sir.
Q Wwho did they belong to? A William Holys.
Q Same person you belonged to? A Yes sir.
Q What was it you said about your brother coming after you up in Kansas, and about a treaty? A He went up there to buy privisions, everything in this nation was scarce at that time; he said he thought they would go up and get provisions and fetch me and the children down, said they waa going to make a treaty, and he wanted us to be here, and brought us down.
Q Who did he bring of your family? A Joshua, Tecumseh and Jimmie.
Q And you? A Yes, sir, brought four.
By Mr. Hastings:
Q Bring your daughter Sallie Miller? A No, sir, she was down here long before I was
Q She lived in Vinita doesn't she? A She lives in Vinita now, she did not live in Vinita at that time; she was in Ft. Gibson and about Big Creek somewheres.

Applicant, JOSHUA HOLT, recalled, and examined by Com'r Needles:
Q Esther Holt your mother? A Yes sir.
Q She is the witness that's on the stand here now? A Yes sir.
Q Was she a slave? A Yes sir.
Q Who did she belong to? A Bill and Nellie Holt.

Q They Cherokee citizens? A Yes sir.
Q She went to Kansas didn't she? A Yes, sir.
Q When did she return? A '66.
Q Returned with you? A Yes, sir, and my uncle and two brothers.
Q Where has she been living ever since that? A She lived on Big Creek a while, and she has been living in Vinita.
Q She never got back to Kansas afterwards? A Yes sir.
Q How long did she remain there? A She would go out and work sometimes, and she would be gone six months, seven months, eight months, something like that, and come down on Big Creek again.
Q Did she have a home in this nation? A No sir.
Q Who was she living with? A With her brother up onBig Creek e xcept when she was working out.
Q Was she married then? A No sir..
Q Her husband wasn't living then? A No sir.

By Mr. Hastings:

Q How long has Tecumseh been living in Vinita? A I don't know how long he has been living in Vinita.
Q Well,your best judgment, has he lived there five years? A Yes sir, I guess he has been living this time close on to ten years, I can't tell.
Q You know where he came from? A I think he has been working on a railroad.
Q Where? A Down on this line (indicating).
Q To Texas? A Yes, sir, I am thinking he had been working there, I am not certain.

M. D..Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Signed, M. D. Green,

Subscribed and sworn to before me this June 18th, 1901.

Signed, T. B. Needles,
Commissioner.

Continuation of this case taken by Stenographer J.O.Rosson.

Joshua Holt, et al., Application continued. Former portion reported by Stenographer M. D. Green.

Appearances:

Messrs. Mellette & Smith, for Applicants.
Mr. W.W.Hastings, for Cherokee Nation.

MOSES RILEY, being duly sworn by Commissioner T. B. Needles, testified as follows; By Mr. Smith of counsel for Applicants:

Q State your name? A Moses Riley.
Q Where do you live? A Chelsea.
Q Do you know this applicant, Joshua Holt? A Yes sir.
Q Did you know his mother? A Not very well acquainted with his mother, I knew him.
Q How long have you known him? A I don't know, sir, how long I have known him exactly.
Q How old are you? A 51.
Q Did you know him before the war? A Nosir.
Q When did you first get acquainted with him after the war? A First time I saw him I saw him on his uncle's place on Big Creek.
Q When was that? A It was some years ago, I don't know just exactly how long it was.
Q Who was his uncle? A Andy Daugherty.
Q Well give us your best idea, judgment, as to when it was if you

can when you saw him? A Well, i don't know exactly what year it was.
Q How long ago was it? A I expect it must have been 21 years ago.
Q You hadn't know him before that? A No sir
Q You don't know whom he belonged to? A No sir.

COLUMBUS McNAIR, being sworn by Commissioner Needles, testified as follows: By Mr. Smith:
Q State your name? A Columbus McNair.
Q How old are you? A 51 years of age.
Q What is your postoffice? A Vinita.
Q Do you know this applicant, Joshua Holt? A Yes,sir, I know him.
Q How long have you known him? A I have known him ever since he was a baby.
Q Did you know him before the war? A I knew him just a little before the war come up.
Q Do you know who he belonged to? A Yes,sir, belonged to William Holt.
Q Was William Holt a Cherokee Indian? A Yes, sir.
Q Do you know what became of Joshua during the war? A No, sir, I don't know nothing about him.
Q When did you first see him back in the Cherokee Nation after the war? A Well, sir, I just can't remember what time it was I saw him back.
Q Well, where did you see him when you saw him back? A The first time I saw him after the war was up here on Verdigris.
Q At what place? A Goose Neck Bend.
Q Do you know how long ago that has been? A Well, that was something before 1880.
Q Do you know how long before 1880? A No, sir.
Q Do you know where he was in 1880? A No, I don't know where he was in 1880.
Q Do you know where he was in 1866? A No, sir, I don't.
Q Did you know his mother, Esther Holt? A Yes, sir, I am acquaint-with her.
Q Do,you know where she was in 1866? A No, sir, Imdon't.
By Mr. Hastings:
Q Where did you live before the war, Columbus? A Right across Grand River in Saline District.
Q Where did Joshua Holt and his mother live?
Q In Illinois District.
Q How far was that from you? A When I got acquainted with them I I,s working at John Daniels in Canadian District.
Q How far were you working from him? A Just across the river there at John Daniels at the old place.
Q You were working there when the war came up? A Yes sir.
Q And you knew these people? A Yes sir.
Q You didn't see them for years after the war? A No, sir.
By Com'r Needles:
Q Did you know Joshua's wife's father and mother? A Yes, sir.
Q What was their names? A Anderson Johnson was her father and Dinah was her mother.
Q Were they slaves? A Anderson Johnson was, I don't know anything about their mother.
Q Do you know whether they were married or not? A No, sir.
Q Do you know they lived together as man and wife? A Yes,sir.
Q How long? A I can't say, they were living together when I saw him.
Q Do you know how many children they had? A No, sir, I don't know how many children they had at all.
Q Where was that? A It was on Big Creek when I got acquainted with him.

Q After the war? A Since the war.
Q You never knew them at all before the war? A No, sir.
Q You know Jane you say? A Yes, sir.
Q Where was Jane living when you first knew her? A She was living there with her father.
Q Was she married? A No, sir.
Q Living with her father Anderson? A Yes, sir.
Q Do you know whether Anderson went out of the Nation during the war? A I wasn't acquainted with him.
Q Don't know where he went and when he came back? A No, sir.

By Mr. Hastings:

Q Did you ever know Joshua Holt in Fort Scott? A No, sir.
Q Did you know his mother, Esther? A No, sir, I never seen either one of them up there.
Q How long has Joshua been up to Vinita? A I aint able to say, 12 or 15 years anyway.
Q How long has his mother? A She has been there about as long as he has.
Q How long has Tecumseh been there? A They come there together. They come there about the Wallace Court, before the Wallace Court, and been there ever since. Joshua lived there before that time.
Q The Wallace Court was in 1889 wasn't it? A I guess so, I didn't take any particular notice.

JOSHUA HOLT, the Applicant, recalled: By Com'r Needles:

Q Joshua, did Anderson Johnson, your father-in-law, go out of the Cherokee Nation during the war? A He was a soldier.
Q In what army? A In the 44th or 48th United States Infantry colored, 48th I think.
Q Where was he discharged, do you know? A I think he was discharged at Fort Leavenworth.
Q When did he return to the Cherokee Nation? A '66.
Q How do you know that? A I saw him on Big Creek.
Q In '66? A Yes, sir.
Q Was his wife living there with him then? A Yes, sir.
Q Jane your wife living with him? A She was born on Big Creek.
Q You saw him there in '66? A Yes, sir.
Q Was he there when you come or you come before him? A He was there when I come.

Com'r Needles: Joshua Holt applies for the enrollment of himself, his wife, Jane, his two stepchildren, Laura and Ella Beason, and his own four children, Jessie, Willard, Clifford and Marcella Holt. He cannot be identified upon the authenticated roll of 1880, or census roll of 1896, upon examination; neither can his wife. He is identified as well as his wife on the Kern-Clifton and Wallace rolls according to the page and number of the rolls as indicated in the testimony, and his older stepchild, Laura, is identified upon the Wallace roll and Kern-Clifton roll. His remaining stepchild and his own children, Jessie, Willard, are identified upon the Kern-Clifton roll. His two children, Clifford and Marcella, are not identified upon said rolls, having been born after said roll was compiled. He avers that he is a child of Esther Holt, and that his wife is the daughter of Anderson and Dinah Johnson. He avers that Dinah Johnson was a slave of a citizen of the State of Arkansas, and that Anderson Johnson was a slave of a Cherokee citizen. He also avers that Anderson Johnson, father of his wife, was a UnitedStates soldier, and returned to the Cherokee Nation in the year 1866, where his wife, Jane, was born. Anderson Johnson being a Cherokee slave and his wife, Dinah, being a slave of a citizen of the

State or Arkansas, it will be necessary to make satisfactory proof of the marriage between the said Anderson Johnson and the said Dinah Johnson in order to establish the citizenship of his wife, Jane; and it will also be necessary for satisfactory proof of marriage to be made between Joshua Holt and his wife, Jane, in order to establish the citizenship of his children, in case the citizenship and marriage of Jane's mother is not fully proven. By reason of the facts as set forth in the testimony, said Joshua Holt, his wife, Jane, and his two stepchildren, Laura and Ella Beason, and his four children, to-wit, Jessie, Willard, Clifford and Maucelia, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. The fact that his two children's, Clifford and Caucelia, names do not appear upon any rolls of the Cherokee Nation it will be necessary for him to file satisfactory proof of birth as to said children.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Signed, J. O. Rosson,

Subscribed and sworn to before me this 21st day of June, 1901.

Signed, T. B. Needles,
Commissioner.

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Bruce Q. Jones, stenographer to the Commission to the Five Civilized Tribes, being duly sworn, says that he copied the foregoing, and that the same is a true and correct copy from the original.

Bruce Q. Jones

Sworn to and subscribed before me this the 22nd of July, 1901.

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I.T., June 20, 1901.

In the matter of the application of William Holt for enrollment as a Cherokee Freedman.

Appearances:
Mellette & Smith, attorneys for applicant;
J. S. Davenport, of counsel for Cherokee Nation.

William Holt, being duly sworn and examined by Commissioner Needles, testified as follows

Q What is your name? A William Holt.
Q How old are you? A 25.
Q What is your post office address? A Vinita.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Do you want to enroll anybody besides yourself? A No one.
Q What is your father's name? A Tecumseh Holt.
Q Is he living? A Yes, sir.
Q What is your mother's name? A Sarah Holt.
Q Is she living? A Yes, sir.
Q Have they been listed for enrollment here, your father or mother either? A My father has I think.
Q Where were you born? A Cedar Creek, I was told.
Q Where is Cedar Creek? A It is in the Nation here, I don't know exactly
Q What Nation? A Cherokee Nation I suppose.
Q Don't you know? A No, sir, not except there.
Q Where are you living now? A In Vinita.
Q How long have you lived in Vinita? A Off and on, all my life, except at school.
Q Why didn't you apply at Vinita? A I was at work.
Q You couldn't stop your work? A I didn't stop it.
Q You couldn't stop there, but you could come down here? A I wasn't right there, I was working in Fort Scott or Kansas City, I don't know which.
Q Do you live in Fort Scott? A No, sir, I live in Vinita.
Q Your father and mother live in Vinita? A My father does.
Q Do you live with him? A Yes, sir.
Q Is your name on the roll of 1880? A Not that I know of.
Q Is it on any of the rolls of the Cherokee Nation? A Not that I know of.

Mr. Smith: Do you know whether it is on the Kern-Clifton roll or not? A No, sir, I don't.

The 1880 authenticated roll of Cherokee Freedmen examined and the applicant not identified thereon.

The 1896 census roll of Cherokee Freedmen examined, and the applicant not identified thereon.

Q Are you married? A No, sir.
Q Ever been married? A No, sir.
Q You know whether you drew the strip money or not? A No, sir I didn't draw it.
Q Never drew any money from the Cherokee Nation? A No, sir.

The Kern-Clifton roll examined and the applicant not identified thereon.

The Wallace roll examined and the applicant not identified thereon.

Mr. Davenport: Where were you living when you can first remember?
A In Vinita.
Q How long ago has that been? A I don't know exactly how many years it has been, before I went off to school.
Q How long have you been in school? A I suppose, I don't know, I

suppose eight or nine years, seven or eight years, or something.
Q What school have you been attending for seven or eight years?
A I attended school in Fort Scott.
Q Well, when was the last time that you lived in Vinita? A When was the last time: I lived there as my home all the time.
Q Did you ever vote in Vinita? A No, sir.
Q Have you ever been in Vinita when they had an election? A No, sir.
Q Have you lived in Vinita at all since February 11, 1893? A Yes, sir I have.
Q Didn't you come from Fort Scott, Kansas, last Thursday, and come for the purpose of attending this enrollment at this place? A No, sir, I didn't.
Q Haven't you been living in Fort Scott, Kansas, all of your life? A No, sir.
Q In what part of Vinita do you live now? A Right there by that church, right up from the depot there.
Q What church? A Why that white church, I don't know what the name is.
Q There are several churches? A The first one right up the street from the depot.
Q What street? A The one you go up, the one the depot is on, I don't know the name of the street, the Katy Depot.
Q What direction from the M.K.& T. depot? A This direction (indicating) whatever direction that is.
Commissioner: You ought to know whether it is east or west of the Katy Depot? A It is west to me.
Mr. Davenport: Don't you know there isn't any white church on the street running west from the Katy depot? A Well what kind of a depot is it?
Q Who do you live with? A My father.
Q How long have you been living in the town of Vinita with your father, Tecumseh Holt? A All my life except when I am not off at school or at work.
Q How often do you work, or how often do you go to school? A I work all the time when I can find it.
Q How long since you returned from Fort Scott, Kansas, to Vinita?
Q I haven't been in Fort Scott in over a year.
Q When did you return from the states? A Last Tuesday.
Q How long had you been in the state before you returned last Tuesday? A Two or three months.
Q Where had you been prior to that time? A Been doing anything I wanted to do.
Q Do you know L. B. Bell, in Vinita? A I know him when I see him I suppose, I don't know.
Q You live there with Tecumseh Holt? A Yes, sir.
Q You know where I live in Vinita? A No, sir.
Q Don't you know I live on the same street Tecumseh Holt does, and within three blocks of him? A No, sir.
Q Don't you know you haven't been living with Tecumseh Holt in the last three years? A I know that I have.
Q In whose house does Tecumseh Holt live? A It is a house he has rented. I don't know whose house.
Q You been living there continuously and you don't know whose house it is? A I don't inquire into his business, I don't pay the rent.
Q You mean that, him? A Yes, sir.
Q You are 20 years old? A Yes, sir.
Commissioner: You been going to school up in Kansas? A Yes, sir.
Q How much have you voted up there? A I have never voted up there.
Q You ever vote in Vinita? A No, sir.
Q Never voted anywhere? A No, sir.

Q You don't think much of the right of suffrage then? A I don't know about that.

Mr. Smith: Do you know where the public school or academy of Vinita is, the academy building, the brick building? A There is some school right on the street above us.

Q About how far above you? A It is one or two blocks.

Q How far from where you life to Padgett's store? A I think Padgett's store is in the second block.

Q Which way from you? A East; I know it is two or three.

Commissioner: How large a town is Vinita, about how many people? A I should judge about 2500 or 3000.

Q You don't know where this school house is that yo have just been asked about? A I know where the school house is, I don't know whether it is the same one he is talking about.

Q Are there many schools in Vinita, or not? A I know of two.

Q Whereabouts are these? A One right above us here, and I think one they call the Willie Halsell up on the M.K.& T.Railroad.

Q One called the Willie Halsell school? A I think that is what they call it.

Q Any public school there? A I suppose there must be.

Q Do you know? A No, sir.

Q How many churches are their in Vinita? A I don't know.

Q Know whether there are any or not? A Yes, sir, I know there are some.

Q Well, for a man that has lived in Vinita for 25 or 26 years, you don't seem like you know very much about it, it appears to me; I haven't been there much and I can tell you how many churches there are there? A I don't attend any churches.

Mr. Davenport: Where is the public school building for the colored children in Vinita? A I don't know whether where it is.

Q You know they have one there for you have been living there?

A I am not there very much of the time.

Q Do you know where any of the colored churches are? A Yes, sir.

Q Where are they? A One on the other side of the tracks.

Q Which tracks? A M.K.& T.

Q You don't know anything about the public schools at Vinita?

A No sir, nothing about the schools, I have been to the churches.

Q You didn't come direct from Fort Scott to Vinita the other day?

A No, sir.

Q Where had you been living before you came down last Tuesday?

A I was living in Kansas City.

Mr. Smith: What did you do? A I am a cook by trade.

Q How long have you been in Kansas City? A Three months.

Q You work simply where you can get work? A Yes, sir.

Q You spoke of a church next to where you lived, or up there; now in what direction is the church from your house? A Why it is right across the street, west I should call it.

Q You don't know where Mr. Davenport lives? A No, sir, I don't

Q You don't know whether he lives about a quarter of a mile farther on down that street or not? A No, sir, don't know a thing about it.

Q You know where Mr. Halsell lives there? A I think he lives up on the hill.

Mr. Davenport: You certainly know, don't you? A No, sir, I don't know for sure.

Q As a matter of fact, you don't know a thing in the world about Vinita of the people of Vinita? A Yes, I do.

Q There used old man Little, William Little, live? A I don't know him.

Q Where does Dr. Glintacalos live? A He used to live right near us, he used to.

Q Mr. Little's house is just across the lot from the house I occupy

Holt lives in, isn't it? A I don't know Mr. Little.
Commissioner: Never heard of Mr. Little? A No, sir.
Q Fact of the business is, William, to be right down to brass tacks, you are the son of Tecumseh Holt and unmarried? A Yes, sir.
Q You kind of call it your home at Vinita, and are not around there much? A No, sir, I am not there much, I work out.
Q Were you ever married? A No, sir.

Commissioner: William Holt applies for the enrollment of himself. He cannot be identified upon the authenticated roll of 1880 or the census roll of 1896 or the Wallace roll or any other roll in the possession of this Commission. He avers that he is a resident of the town of Vinita, in the Cherokee Nation, and that he is the son of Tecumseh Holt, but does not make satisfactory proof as to his residence. The applicant avers that he is the son of Tecumseh Holt, who is duly listed for enrollment by this Commission as a Cherokee Freedman upon a doubtful card, No. 653, and the testimony taken in said case will be made part of the record in the case at bar and a copy thereof filed herewith. The applicant will be listed for enrollment as a Cherokee Freedman on a doubtful card, and notified by mail of the decision of the Commission in the premises when arrived at.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 20th of June, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Tecumseh Holt, et al., as Cherokee Freedmen, consolidating the applications of:

Tecumseh Holt, Cherokee Freedmen D-695,
William Holt, Cherokee Freedmen D-694.

DECISION.

The record in this case shows that applications for enrollment as Cherokee freedmen were made to this Commission by Tecumseh Holt for himself and by William Holt for himself. A copy of the testimony taken at Chelsea, Indian Territory, on June 10, 1901, in Cherokee Freedmen D-644, and a copy of the testimony of Sam Webber taken at Nowata, Indian Territory, on June 26, 1901, in Cherokee Freedmen D-866, are filed herewith and made a part of the record in this case.

The evidence shows that the applicant, Tecumseh Holt, was the slave of a Cherokee citizen at the commencement of the rebellion; that during said rebellion he left the Cherokee Nation and did not return thereto and establish a residence therein within the time specified in the decree of the Court of Claims rendered on February 5, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation. The evidence further shows that the applicant, William Holt, is the son of the said Tecumseh Holt; that he was born since 1866 and has no right to enrollment except through his said father.

It does not appear that either of the applicants is identified on the 1880 authenticated Cherokee Roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Tecumseh Holt and William Holt as Cherokee freedmen should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES,

SIGNED. Tams Bixby
Chairman.

SIGNED. T. B. Needles
Commissioner.

C. R. Breckinridge
Commissioner.

SIGNED. W. E. Stanley
COMMISSIONER.

Muskogee, Indian Territory,
this MAR 5 1902

694

N. D. [redacted]

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the

..... day of ..... .....A. D. 1901

Given under my hand this .....

day of ..... .....A. D. 1901.

.....

Marshal for the Cherokee Nation.

---

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the

..... day of ..... , 1901.

.....

Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the ..... day of ..... .....A.D.1901

.....

Subscribed and sworn to before me this ..... day of ..... .....A.D.1901.

.....

Notary Public.

# NOTICE!

*IN THE MATTER OF* the application of William Holt for enrollment as a Cherokee citizen:

Case No. D 694

To William Holt or Mellette & Smith his Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of ~~Vinita, Indian Territory.~~ Indian Territory, on Oct. 5th at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 17 1901

L B Bell

W. M Hastings

*Attorneys for the Cherokee Nation.*

Cherokee Freedmen
D-694.

Muskogee, Indian Territory, March 24, 1904.

William Holt,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting, among others, your application for enrollment as a Cherokee freedman. Your attorney, Edgar Smith, Vinita, Indian Territory, has heretofore been furnished with a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Register

Enc. D-75.

Cherokee Freedmen
D-663, D-694.

Muskogee, Indian Territory, March 24, 1904.

Edgar Smith,

Attorney for Tecumseh Holt et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting the applications for the enrollment of Tecumseh and William Holt as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Register

Commissioner in Charge.

Enc. D-74.

COPY.

Cherokee Freedmen
D-453, D-694.

Muskogee, Indian Territory, March 24, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting the applications for the enrollment of Tecumseh and William Holt as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles

Enc. D-75.

Commissioner in Charge.

COPY.

Cherokee Freedmen
D-653, D-694.

Muskogee, Indian Territory, March 24, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Tecumseh Holt et al., including the Commission's decision, dated March 5, 1904, rejecting the applications for the enrollment of Tecumseh and William Holt as Cherokee freedmen.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Through the
Commissioner of Indian Affairs.

Enc. D-76.

Copy.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 17, 1904.

Refer in reply to the following:

Land.

20536-1904.

The Honorable/

The Secretary of the Interior.

Sir:

I have the honor to enclose herewith a report from the Commission to the Five Civilized Tribes, dated March 24, 1904, transmitting the record of the application of Tecumseh Holt for himself and his son, William Holt, for himself for enrollment as Cherokee freedmen.

March 5, 1904, the Commission found that the applicants were not entitled to enrollment as Cherokee freedmen.

The evidence shows that the applicant, Tecumseh Holt, was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that during the war he left the Cherokee Nation and did not return and establish a residence therein on or before February 11, 1867. The evidence further shows that William Holt is the son of Tecumseh Holt and a State woman; that he was born in the year 1876 and has no right to enrollment except through his father, Tecumseh Holt.

It does not appear that the name of either applicant is identified on the 1880 authenticated Cherokee roll,

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

A. G. Tanner,

Acting Commissioner.

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W.C.F.

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DEPARTMENT OF THE INTERIOR, J.P.

D.C. 21700-1904.
I.T.D. 5028-1904.
L R S

WASHINGTON. June 23, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

March 24, 1904, you transmitted the record in the consolidated case embracing the applications of Tecumseh Holt et al (F.D-653, D-694), for enrollment as Cherokee freedmen, including your decision of March 5, 1904, rejecting said applications.

Reporting June 17, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock.

Secretary.

1 inclosure.

Cherokee Freedmen
D 694

Muskogee, Indian Territory, June 30, 1904.

William Holt,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting, among others, your application for the enrollment of yourself as a Cherokee freedmen, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 894 & D 453

Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting the applications for the enrollment of William and Tecumseh Holt as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

[illegible]

Muskogee, Indian Territory, June 30, 1904.

Edgar Smith,

Attorney for William Holt, et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 8, 1904, rejecting the applications for the enrollment of William and Tecumseh Holt as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date JUN 11 1901

Post Office Vinita, I.T.

District Cos.

1. Name William Holt Age 25

Owner's name Citizenship

Year ——— Page ——— No. ——— District ———

Parents:

Father Tecumseh Holt - living Citizenship

Mother Sarah " - living Citizenship

2. Name of wife Doubtful

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Year Page No. Dist.
4. Year Page No. Dist.
5. Year Page No. Dist.
6. Year Page No. Dist.
7. Year Page No. Dist.
8. Year Page No. Dist.
9. Year Page No. Dist.
10. Year Page No. Dist.
11. Year Page No. Dist.
12. Year Page No. Dist.

Application made by No. 1 Stenographer W. L. Jones

Ref. D. 65-3,

Represented by Mellette and Smith, Vinita, I.T.

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

[illegible] Holt.
Vinita, I. T.
Cherokee-F-D-694.
Relator.

Cher. Fr. R. 399

See Cher. Fr. D. 644 R. 398

Cher. Fr. R. 399

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I. T. June 18th 1901.

In the matter of the enrollment of Tecumsah Holt for enrollment as a Cherokee Freedman; she being sworn by Commissioner T. B. Needles, testified as follows:

Mellette & Smith attorneys for the applicant:

W. W. Hastings for the Cherokee Nation.

Examined by Com'r Needles,-

Q What is your name? A. Tecumsah Holt.
Q What is your age? A. About 50.
Q What is your post office address? A. Vinita.
Q In what district do you live? A. Cooweescoowee.
Q Do you wat to be enrolled as aCherokee Freedman? A Yes sir.
Q Have you ever applied to be enrolled as aFreedman of any other tribe or Nation? A. No sir.
Q Who do you want to have enrolled besides yourself? A. Just myself.
Q Have you been recognized by the authorities of the Cherokee Nation as a Cherokee freedman? A. I guess sot.
Q Is your name on any of the rolls of the Cherokee Nation? A. No sir.
Q Never drew any money from the Nation? A. No sir.
Q What is your fathers name? A. They tell me he was named Fox Holt.
Q What is your mothers name? A. Easter Holt.
Q Is she living? A. Yes sir.
Q Are you a brother of Joshua Holt? A. Yes sir.
Q Where were you born? A. In Flint district.
Q Were you a slave? A. Yes sir.
Q To whom did you belong? A. William and Nellie Holt.
Q Were they Cherokee citizens? A. Yes sir.
Q Were you taken out of the Cherokee Nation during the war? A. Yes sir
Q Where to? A. Fort Scott Kansas.
Q When did you return after the war to the Cheroke Nation? A. To Big creek Cherokee Nation.
Q When? A. In '66.
Q Have you lived here ever since? A. Yes sir.
Q Are youd married [redacted]? A. Yes sir.
Q Who is the mother of the boy William Holt you wanted to apply for and who is now of age? A. A state woman.
Q Were you ever married to him? A. Yes sir.
Q When ? A. In '75.
Q Where? A. At Oswego Kansas.
Q Have you a certificate of your marriage? A. No sir, I have it,I forgot it.
Q Where was your son William born? A. On Cedar creek.
Q Has he always lived in the Cherokee Nation? A. Not all the time, he workes out some.
Q Where is he now? A. Kansas.
Q Is he living there now? A. Works there.
Q Did you ever work in Kansas yourself? A. Yes sir.
Q How long did you live in Kansas? A. I have worked there 3 or 5 months at a time.
Q Who did you come here with in '66? A. Wil my mother Easter Holt.

By Mr. Smith of counsel for applicant-

Q How old are you? A. About 50.
Q Were you born a slave? A. Yes sir.
Q Do you remember when you first came back to the Cherokee Nation after the war? A. I remember a little something about it, just that it was

in '66.
Q Who did you come here with? A. Uncle Andy Dougharty and my mother and two brothers, Jim and Joshua.
Q Are you a daughter of Ester Holt who applied for enrollment this morning? A. Yes sir.
Q And a brother of the Joshua Holt who applied this morning? A. Yes sir.
Q Where do you live now? A. At Vinita.
Q How long have you lived there? A. Since 1845.
Q Are you married? A. Have been
Q When were you first married? A In '75.
Q Where did you marry then? A. In Oswego,
Q Kansas? A. Yes sir.
Q Do you remember when it was that you first went out of the Indian Territory after you became big enough and after you had come back with your mother and brothers to the Cherokee Nation? A. Yes sir it was in the winter of '74.
Q Where did you go then? A. To Oswego Kansas.
Q Was that the time you were married? A. No sir that was before I was married.
Q Before? A. Yes sir.
Q What business or work did you follow there? A. Making mortar and carrying brick
Q A day laborer? A. Yes sir.
Q You were in Kansas in '74? A Yes sir in the winter.
Q How long did you stay there before you came back to the Cherokee Nation? A. I went there in December or January and I lived there until the 24th of March '75.
Q You werethere how many months? A. A little over 3 months.
Q Where did you come from there? A Went to Parsons then and staid a months.
Q Where did you come from is what I asked? A. The Cherokee Nation.
Q Did you work in Parsons? A. No sir.
Q When did you next come back to the Cherokee Nation? A. I staid there a month and come back and and worked on the road.
Q What road? A. The rail road, the M. K. & T.
Q How long did you work on the rail road? A. 2 or 3 years, not steady, but most of the time.
Q What were you doing on the rail road? A. With the Section gang.
Q Where was your head quarters then? A. Parsons Division run from Parsons into the Territory.
Q Where did you next go out of the Cherokee Nation after that? A. I have been out several times since then, but I have never lived outside of the Territory; have never owned anything out of the Territory.
Q What have you in the Cherokee Nation? A. Nothing but a farm on the Public Domain.
Q How long have you had that farm? A. 5 or 6 years.
Q Did you ever own any other farm prior to that one? A. Yes sir. the first one was 5 or 6 years ago, and there was a man claimed it and I gave it up.
Q Did you ever own any before that? A. No sir that is all the farm land I ever owned.

By Hastings:

Q You were in Fort Scott Kansas during the war? A. Yes sir.
Q And your mother was named Esther Holt? A. Yes sir.
Q Do you know Jim Foreman? A. No sir.
Q Never saw him in Fort Scott Kansas? A. No sir.
Q Do you know Simon Mahoney? A. No sir.

Q Never saw him in Fort Scott? A. No sir not as I knows of.
Q You want old enough to remember years when you first came down her?
Q A I knowned the years when I heard them said by anybody.
Q T at is the only way you know when you came back is it? A. Yes sir.
Q What time of the year did you come down? A. Warm weather.
Q In August,? A Yes sir I think so.
Q Your mother testified that you came with Andy Dougherty? A. Yes sir
Q In a wagon? A. Yes sir.
Q And Andy had a house already when you came? A. Yes sir.
Q Who were some of his neighbors? A. Martha Daugherty, Ruben Johnson, Anderson Johnson, [redacted].
Q Was Peter Ward there? A. I never seed him.
Q You got acquainted with him afterwards? A. Yes sir.
Q Andy Dougherty had a place there at that time did he? A. Yes sir.
Q Had he a crop of corn in? A. Yes sir, a little,
Q You remember he had some? A. Yes sir.
Q How long had Andy been there when you come? A. I dont know.
Q As much as two years? A. I can't saw.
Q Never told you that he had been there that long did he? A. No sir.
Q Had he been to Fort Scott before that? A. He never lived at Fort Scott.
Q You never saw him at Fort Scott during the war? A. No sir not till he come for us.
Q Did your father come with you? A. No sir.
Q You all moved into Andy's house? A. Yes sir.
Q You and your mother and brothers didn't live off in a separate house A No sir.
Q Just lived in the same house? A. Yes sir.
Q What did you do for a living? A. Lived on what we could get.
Q Did you work for anybody? A. No sir, worked for uncle Andy some but didn't get paid for them, didnt go out to work for anybody else.
Q Did you ever work for any one else after that while you were living there? A. Yes sir.
Q Went to making ties for some timber men.
Q How long was that after you came down there? A. 3 or 4 years.
Q Was that the first work you did after you came down here? A. First that I got paid for.
Q Did your brothers work for your uncle when you did? A. He wasn't there he was off at work.
Q In Kansas? A. I dont know.
Q Where was your mother? A I left her there when I went away.
Q How long had she been living there before you went away? A. 3 or 4 years.
Q Were you in Fort Scott Kansas in '67, 8 and 9 ? A No sir.
Q Wasn't your mother living there then? A. No sir.
Q Where was she then? A. On Big creek I said.
Q Where was your brother Jeshua then? A. He was there some of the time and some of the time I dont know where he was.
Q You swear that you were never back to Fort Scott from '68 until '74?
A Yes sir I am swearing aint I?
Q But never was in Kansas at all between those dates? A. Yes sir I was in Kansas.
Q There? A. Oswego.
Q I thought you said you never was in Kansas again until '74? A. That is the first time I was in Kansas.
Q Is that the first time that you ever went back there after you came down here with your mother and brothers in '68? A. Yes sir I believe it was.
Q Are you positive? A. I think I am.

Q Were you ever in Fort Scott between '66 and '74? A. Not that I know of.
Q Are you positive of that now? A. No sir I am not, but I don't think I was.
Q Your mother used to live in the government building there didn't she? A. Not as I know of.
Q You were married in Oswego you say? A. Yes sir in '75.
Q When did you first move to Vinita? A. Went there in '75.
Q When did you commence keeping house in Vinita? A. In [illegible]
Q After the Wallace court? A. No sir I was there before that, but I lived with my sister.
Q What is her name? A. Bettie [illegible]
Q Did you have you wife with you? A. No sir.
Q Where was she? A. In Missouri, never would come here.
Q Where was that son you spoke of? A. With her.
Q When did he come down here? A. In '81 and he [illegible] couldn't stay there cause you Indians rocked the colored folks and he couldn't stay and I sent him away.
Q Did your wife ever come to the Territory? A. Yes sir in '76.
Q When did you separate from her? A. I suppose when she wouldn't come down here.
Q When was that? A. In '76, long in the last part.
Q When was this boy of yours born? A. In '76, in May.
Q He was a baby then when you and your wife parted? A. Yes sir.
Q You separated from her that fall? A. Yes sir.
Q And she has never been here since? A. Yes sir she was here but wouldn't stay .
Q Have you been living for the past ten years in Vinita? A. Yes sir
Q Never back to Kansas in that time? A. No sir.
Q What did you do there in Vinita? A. Worked.
Q Who for? A. Was Worked for Mr. Ratliff a while.
Q When? A. In '92
Q Do you know Jim Martin on Big creek? A. No sir.
Q Are there any Cherokees there that you do know? A. No sir, never saw many there.
Q Did you live with your mother before the war? A Lived with my old master.
Q Did your mother live with your old master? A Yes sir.
Q That was in Flint district? A. No sir I was born in Flint, but we lived at Webbers falls.

Applicant not found on the 1880, 1896, Starr Clifton or Wallace rolls

By Com'r Meddles.-

Tennessah Holt applies for himself, he is not found on any of the rolls of the Cherokee Nation; he avers that he is the child of Master Holt and a brother of Joshua Holt, and the said Joshua Holt has this day been listed for enrollment as freedmen Doubtful Card #644 and the testimony taken thereon is hereby referred to and a copy thereof will be filed with this case and made a part of the record herein. The said Tennessah Holt will be listed for enrollment as a Cherokee Freedman on a doubtful card for the further consideration of the Commission and he will be notified of the final decision of the Commission in regard to his case when the same is rendered.

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Serv. B.

I, [illegible], being sworn state on oath as stenographer to the Commission of the Five Civilized Tribes, and reported in full all the proceedings in the above cause and that the foregoing is a full true and correct transcript of the stenographic notes thereto.

Subscribed and sworn to before me this the 28th day of June, 1906, at Muskogee, I. T.

Commission

To be filed with case of Tecumseh Holt, C.F. D.#653.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., JUNE 10, 1901.

In the matter of the application of Joshua Holt for the enrollment of himself, wife and six children as Cherokee Freedmen; being sworn and examined by Commissioner Needles, he testified as follows:

APPEARANCES:
Mr. Smith, of Mellette & Smith, for applicant;
Mr. W. W. Hastings, for the Cherokee Nation.

Q What is your name? A Joshua Holt.
Q How old are you? A 52.
Q What is your post office address? A Vinita.
Q What district do you live in? A Coowescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A Wallace and Clifton.
Q Not on the roll of 1880 then? A No, sir.
Q Who do you want to enroll besides yourself? A My mother first.
Q Well the second? A My wife, and children and self.
Q Where is your mother? A She is out there.
Q She can appear for herself? A She is so old she don't have any recollection, I think she is pretty near a hundred years old, and not able to give in hardly.
Com'r: You can let your mother come and apply, and you can be a witness for her.
Q Your wife and children, you say? A Yes, sir.
Q What is your wife's name? A Jane Holt.
Q How old is she? A 32.
Q What are the names of your children? A Laura Holt.
Q How old? A 19.
Q Next one? A Ella Holt, 15.
Q Next one? A Jessie Holt, 10; Willard Holt, 9; Clifford Holt, 6; Marcelia, three months old.
Q That's six children? A Yes, sir.
Q Are these children all living at this time? A Yes, sir.
Q Living with you? A Yes, sir.
Q What was your wife's father's name? A Anderson Johnson.
Q Was he a Cherokee freedman? A Yes, sir.
Q How did he die? A About 20 years.
Q What is her mother's name? A Dinah.
Q Is she living? A No, sir.
Q Was she a Cherokee freedman? A Yes, sir.
Q Is your wife's father's name on the roll of 1880? A No, sir.
Q You say your name is on the Kern-Clifton roll? A Yes, sir.
Q Is it on the Wallace roll? A Yes, sir.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined and applicants identified thereon do follows:
Page 139, #3639, Josh Holt, Coowescoowee District;
page 140, #3640, Laura Holt, Coowescoowee District;
page 144, #3675, Jane Holt, Coowescoowee District;
page 147, #3641, Ella Holt, Coowescoowee District;
page 147, #3642, Jessie Holt, Coowescoowee District;
page 147, #3643, William Holt, Coowescoowee District.

Q You didn't draw for Clifford did you? A No, sir.

Wallace roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
page 117, #2476, Jean Holt, "District, Fort Scott, Kansas."
page 117, #2477, Jane Holt, "Fort Scott, Kansas."
page 117, #2478, Laura Holt, "Fort Scott, Kansas."

ESTHER HOLT, being sworn and examined by Com'r Needles, testified as follows:

Q What is your name? A Esther Holt.
Q How old are you? A Along about 88.
Q What is your post office? A Vinita.
Q What district do you live in? A Cooweescoowee.

APPLICANT recalled, and further examined: By Mr. Smith:

Q How old are you? A 52.
Q Where do you live? A Vinita, Indian Territory.
Q Were you born a slave? A Yes, sir.
Q Who was your owner? A Bill and Nellie Holt.
Q Were they citizens of the Cherokee Nation, Indian Territory?
A Yes, sir.
Q Where were you when the Civil War commenced? A I was at Webbers Falls, Cherokee Nation.
Q Did you go out of the Cherokee Nation during the war? A Yes, sir.
Q Where did you go? A Fort Scott, Kansas.
Q When did you return to the Cherokee Nation first after the war?
A '66, in August.
Q Who was with you? A Andy Daugherty, my mother and two brothers
Q What was your brother's name? A Tecumseh Holt and James Holt.
Q Where is James Holt? A I have not saw James Holt for twenty years.
Q You don't know where he is? A No, sir.
Q Where is Tecumseh Holt? A He is here somewhere.
Q Where does he live? A Vinita.
Q What is your mother's name? A Esther Holt.
Q What was your father's name? A Jonas Pack.
Q Where did he die? A He died when the emigrants left this Nation going to California about 1849.
Q You spoke of your mother and yourself and brother Tecumseh and another brother named James, coming here to the Cherokee Nation after the war in '66, where did you come to? A Came to Big Creek.
Q Near what point as the country is developed now? A I don't understand you.
Q I mean to say at what point on Big Creek did you come?
A Near about in the settlement you have reference to?
Q Yes? A Up there about where Reuben Johnson lives and Mike Whitmire.
Q Near what place is that now? A It was on George Duffin.
Q I mean as to what post office is it now? A Near Edna, Kansas.
Q How far is it from where Hayden is now? A I don't know, Hudson may be closer I think, Hudson post office is nearer than Edna Kansas
Q You think it is nearer what is now Hudson? A Yes, sir.
Q How long did you live there on that place you have mentioned?
A I lived there off and on and go there and work and come back again
Q Well, you were then about how old? A I can't tell exactly how old I was about that time.
Q Were you married? A I was unmarried at that time.
Q When did you marry? A I married in 1889.
Q Were you ever married before that? A No, sir.
Q Were you a single man from '66 up to '89? A Yes, sir.
Q Do you mean '98, three years ago? A 1889.
Q Then you were mistaken when you said 1898? A Yes, sir, I was mistaken.

Q Where are these children, Laura Holt, Ella Holt, Jesse Holt, Willard, Clifford and Rhoselia? A They are living in Vinita.
Q How long have they been living there? A They have been living in Vinita I guess for 12 or 13 years.
Q They are living with you? A Yes, sir.
Q You stated that you worked around from place to place, where was your mother after you come back to the Cherokee Nation? A She was there sometimes and she worked out sometimes and worked and come back again.
Q Where does your mother live now? A Vinita.
Q How long has she been living at Vinita? A I guess 13 or 14 years
Q Was your mother a slave? A Yes, sir.
Q Who did she belong to? A Bill and Nellis Holt.
Q The same persons you have mentioned i n your own testimonyL
A Yes, sir.
Q Where was your mother when the Civil War commenced?
A Webbers Falls, Cherokee Nation.
Q Did she or did she not go out at the same time you did?
A She went out at the same time I did.

EXAMINED BY COM'R RAMMELS:

Q Do you live i n Vinita? A Yes, sir.
Q Why didn't you appear before the Commission at Vinita when we were there? A My mother was sick and she wasn't able to get there; that's just the reason, I didn't appear at that commission.

BY MR. HASTINGS:

Q Your present wife is the only wife you have ever had? A Yes,sir.
Q You testified that you married her in 1889? A 1889.
Q Your oldest child is 19 years of age, you have given, Laura?
A Yes, sir, she is my stepchild, my wife's child, Laura and Ella both.
Q Didn't you apply for your daughter Laura and Ella to be put on the Kern-Clifton roll? A I applied for them, yes, sir.
Q Did you then say anything about their being your step-children?
A I think I did, I am not certain.
Q What was your wife's maiden name? A Jane Johnson.
Q Where was she born? A Big Creek, Indian Territory, Coowescoo-wee district.
Q How old is she? A I think she is now about 32 years old, 30 or 32.
Q Who was her father? A Anderson Johnson.
Q Who was her mother? A Dinah Johnson.
Q Where did you marry her? A Coowescoowee district, Big Creek.
Q Who married you? A Peter Meigs.
Q Does she claim to be a Cherokeefreedman? A Yes, sir.
Q Freed woman? A Yes, sir.
Q Did she apply before to the Kern-Clifton Commission? A Yes,sir.
Q By what name? A In 1896?
Q Yes, sir? A Jane Holt.
Q Where did you move to Vinita from? A I were living at Big creek, and I went up to Ft. Scott I think that was in 1889; and went from there to Vinita just before the Wallace court.
Q But you came from Ft. Scott down to Vinita? A Yes, sir.
Q Did you bring your wife with you? A Yes, sir, we was up there working, I hadn't moved up there.
Q But your wife was with you? A Yes, sir.
Q What was you doing up there? A I was cooking up there.
Q Who for? A Man named T. K. Robinson.
Q He was living there was he? A Yes, sir.
Q Colored man? A No, sir, he was a white man.
Q How long had you been in Ft. Scott when you came to Vinita?
A 1889 I believe it was '88 or 9.

Q I say how long had you been up there when you come down to Vinita? A I don't know just how long.
Q Well, about how long? A I can't tell you. I come back before the Wallace taken the census.
Q You don't know how long you had been up there? A Not exactly.
Q About how many years? A I tell you I don't know.
Q You can make some sort of an estimate? A Well, about, up there a year, not quite a year.
Q Were you up there more than a year? A I don't think I was.
Q Hadn't you been up there ever since 1865? A Up in Ft. Scott.
Q Yes? A Why certainly not.
Q Then you deny positively that you were there more than two years?
A Yes, sir, I do, at a time.
Q Where was your oldest child, Jesse, born? A Jesse was born in Vinita.
Q Have you been living in Vinita since 1889? A Yes, sir.
Q All the time? A Except when I was out working.
Q Where were you out working? A I were out at Lawrence, working and I was at Pabla and I was at Weir City, Kansas, working.
Q Where else were you working? A I worked there at Chetopa.
Q Working in Ft. Scott? A Since '89?
Q Yes? A I don't think I have.
Q How much of this time since 1889? have you actually resided in Vinita up there personally present? A I have been there pretty regular ever since 1892.
Q How many years? A Well all the way along.
Q Have you been there now for the past nine years all the time, continuously? A Yes, sir, except when I was working out aI tell you.
Q I want to know how much time you have been working out?
A I could not tell you that, because I don't know, but altogether wouldn't make a year.
Q Where was your wife at that time, in Vinita all this time?
A She was in Vinita.
Q She never went out with you when you worked out? A Not since 1889 she hasn't.
Q Where was this next child Willard born? A In Vinita.
Q Where was the next, Clifford? A In Vinita.
Q Where was Maucelia born? A Vinita.
Q All four of these children were born in Vinita were they?
A Yes, sir.
Q Who did you come down to the Cherokee Nation with after the war?
A Andy Daugherty.
Q Didn't Andy Daugherty have a place down there when you came?
A Yes, sir.
Q He had a house up? A Yes, sir.
Q He had a patch of corn in? A Had a little corn in.
Q When you come? A Yes, sir.
Q Who else had a house down there when you come? A I think Uncle Mike Whitmire had a house and Reuben Johnson had a house and Anderson Johnsen had a house and Harrison Johnson had a house.
Q George Duffin? A I think so, I am not certain.
Q Was Uncle Peter Ward living down there then? A I don't know.
Q Was Reuben and Took Sanders? A Yes, sir.
Q Did they have small crops of corn too? A I wasn't on their place, would see them passing back and forth, I guess they lived there.
Q Didn't all these people that you have mentioned have corn?
A I don't know, Uncle Andy Daugherty did, and I believe Whitmire did
Q What time did you come there? A In August.
Q How long did you remain when you came in August? A I must have stayed there about six or eight months before I went away.
Q Where did you go to? A I think I went to Lawrence I believe.

Q Where was your mother at that time? A When I left I left her on Big Creek, at Andy Daugherty's.
Q She came down with you did she? A When she first came from Kansas? Yes.
Q How long did she stay down there? A I don't know how long she stayed altogether.
Q How long did she stay before she went back? A She probably stayed a year.
Q Then she went down t o Ft. Scott? A Yes, sir, and worked a year and come back again.
Q Did she keep house up at Ft. Scott? A She was working around there, she used to keep house.
Q You lived with her up there, and your brothers? A Yes, we kept house up there in '64 and 5.
Q You didn't live in a Government building up there? A I didn't.
Q Did your mother? A Not as I know of.
Q You didn't live with her up there? A I was with her up there, in '64 and 5.
Q After that time were you with her? A I was with her at the Daugherty's when she was there.
Q Were you with your mother in '66 in Kansas? A I would see her up there when I was working up there and she were working up there.
Q Did you see her in Ft. Scott, Kansas? A Yes, sir.
Q What year was that? A I can't tell you.
Q Did you see her in '66? A We come down here in '66.
Q Did you see her in Ft. Scott, Kansas, in '67? A I think she remained here all that time.
Q Did you see her in Ft. Scott, Kansas, in the year '67?
A No, sir,
Q Did you see her in '68 in Ft. Scott, Kansas? A Yes, sir/ She was there working in '68.
Q And you were there? A I think I come through Lawrence and I see her first one place and another.
Q And where was your brother, Tecumseh A I think he was living up there.
Q You never made a home in Kansas? A No, sir.
Q Never had one? A Yes, sir, I built one about two years ago.
Q You never had one on Big Creek? A No, sir, I come there with my uncle and never made a home until 2 years ago, I bui lt a home two years ago.
Q You never had a separate house there on Big Creek? A No, sir.
Q I went to know where you lived from '66 to '89? A Sometimes I lived on Big Creek. In 1885 I lived on Andy Daugherty's, and went to Vinita.
Q Where was your mother then? A She was at Daugherty's.
Q How much of this time has she lived at Daugherty's? A I don't know.
Q You know Jim Foreman A I do.
Q Did you ever know him in Ft. Scott? A I did.
Q Did you know him there in '66? A I knew him there in '64 and 5.
Q Do you know Simon McKinney? A I did.
Q Did you know him in Ft. Scott, Kansas? A Yes, sir.
Q When did you know him? A '64 and 5.
Q Did you know him about '66? A I saw him after '66.
Q Did you see him about '68? A I saw William Foreman, I don't think I saw Simon.
Q When was the last time you saw William Foreman in Ft. Scott, Kansas? A I don't remember.
Q Did you see him during the year of '66, '67, '68 or '9?
A I didn't see him in '66, and I never saw him in '67 or 9.
Q Did you see him in '68? A No, sir.

Q Were you in Ft. Scott during either of these four years?
A I think I were there in '68.
Q Where was that? A I think I worked there in '65 a little while.
Q Was your mother there then? A I believe she was.
Q Your brother Tecumseh? A I don't think he was.
Q Where was your brother Tecumseh? A I think he was on Big Creek, with Uncle Andy.
Q Was your brother married? A Yes, sir.
Q Where did he marry? A In Osweco, Kansas.
Q State raised woman? A Yes, sir.
Q When? A Married in 1875.
Q What did you do down here in '65? A I didn't do nothing in '66, there was nothing down here to do.
Q Nothing in '67? A I went out and worked; I never worked in here in these days.
Q You never made a crop in the Cherokee Nation? A No, sir.
Q Your mother there never kept house here separate? A No, sir.
By Com'r Needles: Is Jane your first wife? A Yes, sir.
Q Had she been married before she married you? A I don't know, if she was I didn't know it; she had these children.
Q What are the children's names? A Laura and Ella Beason.
Q Where were they born? A Big Creek.
Q Big Creek in the Cherokee Nation? A Yes, sir.
Q Is that where you married her? A Yes, sir.
Q You mentioned about working in Kansas backwards and forwards, did you have your family with you while working in Kansas? A My family was with me up there in Ft. Scott, yes sir.
Q You worked in Ft. Scott and your family was with you? A Yes, sir.
Q How long was that? A I can't tell you exactly, we went there in '69 I think it was, and we went back before the Walleda court.
Q Did you ever have your family working up with you after that?
A No, sir.
Q Since the Wallace roll then has your family always lived at Vinita? A Yes, sir. Except when my wife was out visiting; she went up Linn County, Kansas, once to see her grandmother, and took her children, and she went to Chetopa to see her people.
Q How long did she remain at these places? A I think she remained in Mound City, Kansas, two days, and I don't know how long she stayed at Chetopa.
Q Before she went there was she keeping house at Vinita? A Yes, sir.
Q When she went up with these children did she abandon the house?
A I was at the house.
Q Did she take household furniture with her? A Didn't take anything but a few clothes in a valise.
Q Did she come back to the same house? A Yes, sir.
Q And were you there? A I was there.
Q Is your wife a daughter of Dinah Johnson? A Yes, sir.
Q Is Dinah living? A No, sir she is dead.
Q Andrew Golding? A He is dead.
By Mr. Smith: You say it was in 1875 that you went to Ft. Scott, Kansas after you were married? A Yes, sir.
Q And that you came back before the Wallace roll? A Yes, sir.
Q Now up to 1880 you were unmarried, had you ever married before 1880? A No, sir.
Q What had been your home up to the time you were married?
Mr. Hastings: I want to interpose objection to that, you may ask him where he has lived, but home is a legal proposition; let the facts be developed and let the Commission and others decide about that question.
Mr. Smith: That is immaterial.

Q Where did you stay, where did you live up to the time you were married? A I lived on Big Creek.
Q At whose house? A At Andy Daugherty.
Q Was he related to you? A My uncle.
Q What is your occupation, you spoke of working? A I am a cook, and I am a painter.
Q Now after you were married and after 1880 you were asked when you first built a home, do you mean by that that you now own your own home, or what do you mean? A Yes, sir, I own my own home now.
Q Had you any home place to keep house to live in before you built that two years ago? A I was renting a house to live in.
Q Where? A Vinita.
Q What kind of work did you morher do? A She was washing out and sometimes cooking.
Q Did you have sisters? A Yes, sir.
Q What were your sister's names? A Sallie and Bettie.
Q What is Bettie's name now? A Bettie Hicks.
Q Who was she married to? A Dennis Hicks.
Q Up to the time she married Dennis Hicks what was her chief occupation? A She worked around hotels and such work as that. Hired out.
Q Do you know of your own personal knowledge when she came back to the Cherokee Nation, or not? A No, sir, I don't.
Q Do you know of your own personal knowledge when Sarah came back? A No, sir.
Q You know whether they were slaves before the war? A Yes, sir.
Q Who did they belong to? A Bill and Nellie Holt, same man I did.

By Com'r Needles: You say you were living on Big Creek?
A Yes, sir.
Q No town there? A No, sir.
Q Were you a farmer? A No, sir.
Q What occupation was you following on Big Creek? A My uncle was a farmer and I was living with him, and I worked out there, working and come back there for my home.
Q How long did you live there? A I pulled out from there in '85.
Q You made that your headquarters then? A Yes, sir.
Q Your uncle was a farmer A Yes, sir.
Q You didn't pretend to farm yourself? A No, sir.

By Mr. Hastings: How many brothers did you have? A Had four, three besides myself.
Q And your mother? A Yes, sir.
Q And you all made your Uncle Andy Daugherty's place your headquarters? A Not all of us, I had one brother that never came there at all.
Q Your two brothers and your mother and yourself? A Yes, sir.
Q You never lived in separate houses? A No, sir.
Q Where was your sister Bettie married? A She was married in Vinita.
Q When? A I don't know how many years ago it has been since she got married.
Q Since you came there? A Since I have been in Vinita, yes sir.
Q Hadn't she ever been married before ? A No, sir, not to my knowing.
Q Where did she come from when she came to Vinita? A I don't know, she wasn't with us; she had been working down about Gibson, and places around there.
Q Your sister older than you? A Yes, sir.
Q Where is she living? A In Vinita.
Q How long has she been living there? A I don't know.
Q Since or before you moved there? A She has moved there since I moved there.

Q Where did she come from? A She had been working down about Ft. Gibson I believe, or Tahlequah, I don't know whether she come from there or where.
Q When was the last time you saw her in Ft. Scott? A I don't know.
Q Since the war? A I think I have, but I am not certain.
Q Not positive? A No, sir.
Q She didn't live with you there in '67, 8 and 9? A No, sir, she never did live with me.
Q You know where she married? A No, sir.
Q Did she marry a state raised man? A I don't know whether the man was a state raised man or not, I couldn't tell anything about that.

By Comm'r Needles: Now as to your wife, you say her father's name was Anderson Johnson? A Yes, sir.
Q And her mother's name was Dinah? A Yes, sir.
Q Were they slaves? A Yes, sir, both of them.
Q Who did they belong to? A Anderson Johnson belonged to a Cherokee Named Ben Johnson, and my wife's mother belonged to a man named Chandler, in Arkansas.
Q In Arkansas? A Yes, sir.
Q Slave of an Arkansas man? A Yes, sir.
Q Her father was owned by a Cherokee ? A Yes, sir.
Q And his wife was owned by a citizen of the State of Arkansas? A Yes, sir.
Q Did your wife's father and mother go outside of the Cherokee Nation during the war? A Yes, sir.
Q When did they return? A They moved to Big creek in '66.
Q How do you know? A I was there, I lived close to them.
Q Was Jane born after that or before that? A She was born after they moved there.
Q I forget whetheryou stated your wife's father and mither were both living or not? A They are both dead.
Q Your wife Jane been living in the Cherokee Nation ever since '66? A Yes, sir, except when she was just out visiting.
Q Except when she was out with you? A Yes, sir.
Q You don't know whether she was married before you marriedher or not? A No, sir.
Q You know she had these two children? A Yes, sir.
Q Are these children living with you now? A Yes, sir.

By Attorney Smith: You know who was the reputed father of these two children? A Man said to be named Oscar Beason.
Q Is he living or dead? A Last I heard of him he was living.
Q By Comm'r Needles: Colored man? A Yes, sir.
Q By Mr. Smith: Where is your wife? A I don't know whether she is in the crowd or not, she is here in camp somewhere.
Q Have you a certificate of your marriage to her? A No, sir, I just married by a preacher.
Q Who married you? A Peter Meigs.
Q Is he living or dead? A He is dead.
Q Is there anyone around the camps who saw you married? A The family was there; her two sisters were there, and I was to have them here but they went to Fort Gibson.
Q There is no one here that saw you married? A No, sir.

By Mr. Hastings: How long had you known your wife before you married her? A I knew her from a child.
Q You know whether she lived with this man as husband and wife by whom she had the se two children? A I know she lived with him, I don't know whether they were married or not.
Q How long did she live with him? A She may have lived with him four or five years.
Q She lived with him from the time she gave birth to the first one until she gave birth to the last one? A Yes, sir.
Q Lived in a house together with him? A Yes, sir.

Q You don't know whether they were married or not? A No, sir, I don't.
Q You lived at Webbers Falls when the war come up? A Yes, sir.
Q You went out north? A Yes, sir.
Q Who did you go with? A I went out with the soldiers, soldiers come there at night and takes us out.
Q Were you living with Will and Nellie Holt at Webbers Falls?
A Yes, sir.
Q Did they have children? A Yes, sir.
Q What were their names? A Tempy Whitmire, Johnson Whitmire's wife.
Q How far did you live from Webbers Falls? A I lived about a mile and a half on the other side of Webbers Falls.

APPLICANT'S MOTHER re-called, and further examined.

By Mr. Hastings: Aunty, where do you live now? A Vinita.
Q Who do you live with over there? A I live with my son.
Q What is his name? A Tecumseh Holt.
Q Tecumseh got a wife? A Yes, sir, he has got a wife.
Q What is her name aunty? A Named Sarah Holt.
Q Got some children? A Got one.
Q How old is it? A I don't know.
Q About how old is it a child grown? A Yes, sir, it is grown.
Q Is the child married? A No.
Q Boy or girl? A She is a girl.
Q Where did Tecumseh marry? A I don't know, I am forgetful, my head is not right.
Q You were present when he married? A No, sir, I think he married in Osewego.
Q You wasn't there? A No, sir.
Q Now aunty, you came from Ft. Scott down to Vinita didn't you?
A Yes, sir, when I did come down there.
Q Now aunty, when did you come down there, how many years ago?
A My brother went up there and brough me down and three boys; went to get provisions, everything was very scarce down here at that time, and he brought me and the children down here; he said they were going to make a treaty and he brought us down.
Q And you come did you? A Yes, sir, I come in his wagon.
Q Did he have a house here at that time? A Yes, sir.
Q He had a little field? A Yes sir, small field.
Q What was your brother's name? A Andy Daugherty.
Q There was other people living around in the neighborhood were t here? A Yes, sir.
Q About what time of the year was it, April, May, June, July, August, September, spring, winter, summer or what? A It has been so long I don't remember.
Q Warm weather or cold? A I don't know whether it was warm or cold.
Q How long had your brother been living down here when you came?
A I don't know, he was living down there and had his house built when he brought me down.
Q Been living more n twenty two? A Maybe longer and maybe not so long, I don't know.
Q How long did you stay down here with your brother at that time?
A When he brought me down?
A Yes? A I stayed a year or two, I don't know.
Q Then you went back to Ft. Scott, did you? A Yes, sir, I went back to Ft. Scott.
Q What were you doing up at Ft. Scott? A Working around, trying to make an honest living.
Q You lived in a Government building didn't you aunty? A Yes, I rented up there, took in washing.
Q Before the war? A After the war.

Q Did you know James Foreman? A No, sir.
Q How long was it until you come down to visit your brother again? Did you ever see him any more? A After I went up there?
A Yes? A Yes, sir.
Q How long was it until you saw him again? A Five or six months, maybe seven or eight, I don't know.
Q You never had any home down here A No, I made my home with him.
Q Whenever you came? A Yes, sir.
Q Where were your boys when you went back up to Ft. Scott, were they up there with you? A Josh was cooking somewhere.
Q Was he cooking up there? (No reply.)
Q Did Josh ever have a wife before he got this woman, live with another woman as his wife? A Not that I know of.
Q Never had no children by any other woman A Not as I know of.
Q You were living up there in Ft. Scott when the Wallace payment was made wasn't you Andy? A No, sir.
Q Where were you? A I don't remember.
Q How long did you live up there at Ft. Scott after the war?
A I can't tell you.
Q You spend pretty near all your days haven't you aunty up to the Wallace court? A No, sir.
Q Did you work any down here befre the Wallace Court? A No, sir, I haven't worked before the Wallace court, I have never been able broke up with the rheumatism.
Q About all the work you done was in Kansas? A I couldn't get no work here to do.
Q I say about all the work you done was in Kansas? A No, not all that I done.
Q Who did you work for down here before the Wallace Court?
A Oh I went around waiting on women, and come home and set down and laid down; when I was called I would go.
By Mr. Smith: How old are you, Aunt Esther? A About 85, that's the age they give me; I don't know my age; I was 16 years old the time the stars fell and the Commissioners have been trying to get my age from that, I don't know.
Com'r Needles: That was '32 when the stars fell; I was there myself and saw them fall.
Q What was it you said about having rheumatism? A I said I have rheumatism so I can't do very much.
Q You live with one of your sons? A I live with Tecumseh.
Q Were you a slave before the war? A Yes, sir.
Q Who did you belong to? A William Holtz and Nellie Holtz.
Q Were they Cherokee Indians? A Yes, sir.
Q Where did they live? A Webbers falls.
A How many children had you at the time the war commenced, besides Joshua? A Sallie and Betty and Rosie and Joshua.
Q And who do you live with now A I live with Tecumseh.
Q Was Tecumseh born before the war or after? A Before the war.
Q Is Bettie married now? A Yes, sir.
Q Who is she married to? A Dennis Hicks.
Q Where is she living? A At Vinita.
Q What is Sallie named? A Sallie Miller, she married a man named Miller.
Q And lives at Vinita? A Yes, sir.
Q Were these children whose names you have been slaves? A Yes, sir
Q Who did they belong to? A William Holtz.
Q Same person you belonged to? A Yes, sir.
Q What was it you said about your brother coming after you up in Kansas, and about a treaty? A He went up there to buy provisions everything in this nation was scarce at that time; he said he thought

they would go up and get provisions and fetch me and the children down, said they was going to make a treaty, and he wanted us to be here, and brought us down.
Q Who did he bring of your family? A Joshua, Tecumseh and Jimmie.
Q And you? A Yes, sir brought four.
By Mr. Hastings: Bring your daughter Sallie? A No, sir, she was down here long before I was.
Q She lives in Vinita doesn't she? A She lives in Vinita now, she did not live in Vinita at that time; she was in Ft. Gibson and about Big Creek somewheres.

APPLICANT, JOSHUA HOLT, re-called, and examined by Com'r Needles:
Q Esther Holt your mother? A Yes, sir.
Q She is the witness that's on the stand here now? A Yes, sir.
Q Was she a slave? A Yes, sir.
Q Who did she belong to? A Bill and Nellie Holt.
Q They Cherokee citizens? A Yes, sir.
Q She went to Kansas didn't she? A Yes, sir.
Q When did she return? A '66.
Q Returned with you? A Yes, sir, and my uncle and two brothers.
Q Where has she been living ever since that? A She lived on Big creek a while, and she has been living in Vinita.
Q She never got back to Kansas afterwards? A Yes, sir.
Q How long did she remain there? A She would go out and work sometimes, and she would be gone six months, seven months, eight months, something like that, and come down on Big creek again.
Q Did she have a home in this Nation? A No, sir.
Q Who was she living with? A Either brother up on Big creek except when she was working out.
Q Was she married then? A No, sir.
Q Her husband wasn't living then? A No, sir.
BY MR. HASTINGS: How long has Tecumseh been living in Vinita?
A I don't know how long he has been living in Vinita.
Q Well, your best judgment, has he lived there five years?
A Yes, sir, I guess he has been living this time close on to ten years, I can't tell.
Q You know where he came from? A I think he had been working on a railroad.
Q Where? A Down on this line, (indicating.)
Q To Texas? A Yes, sir, I am thinking he had been working there, I am not certain.

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M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.
(Signed) M. D. Green.

Subscribed and sworn to before me this June 16th, 1901.
(Signed) T. M. Needles,
Commissioner.

CONTINUATION OF THIS CASE TAKEN BY STENOGRAPHER J. O. ROBSON.

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JOSHUA HOLT, et al., Application continued. Former portion reported by Stenographer M. D. Green.

APPEARANCES:
Messrs. Mallette & Smith, for Applicants;
Mr. W. W. Hastings, for Cherokee Nation.

MOSES RILEY, being duly sworn by Commissioner T. B. Needles, testified as follows: By Mr. Smith, of Counsel for Applicants:

Q State your name? A Moses Riley.
Q Where do you live? A Chelsea.
Q Do you know this applicant, Joshua Holt? A Yes, sir.
Q Did you know his mother? A Not very well acquainted with his mother, I knew her.
Q How long have you known him? A I don't know, sir, how long I have known him exactly.
Q How old are you? A 51.
Q Did you know him before the war? A No, sir.
Q When did you first get acquainted with him after the war? A First time I saw him I saw him on his uncle's place on Big creek.
Q When was that? A It was some years ago, I don't know just exactly how long it was.
Q Who was this uncle? A Andy Daugherty.
Q Well give us your best idea, judgment, as to when it was if you can when you saw him? A Well, I don't know exactly what year it was.
Q How long ago was it? A I expect it must have been 31 years ago.
Q You hadn't known him before that? A No, sir.
Q You don't know whom he belonged to? A No, sir.

COLUMBUS McNAIR, being sworn by Commissioner Needles, testified as follows: BY MR. SMITH:

Q State your name? A Columbus McNair.
Q How old are you? A 51 years of age.
Q What is your post office? A Vinita.
Q Do you know this applicant, Joshua Holt? A Yes, sir, I know him
Q How long have you known him? A I have known him ever since he was a baby.
Q Did you know him before the war? A I knew him just a little before the war come up.
Q Do you know who he belonged to? A Yes, sir, belonged to William Holt.
Q Was William Holt a Cherokee Indian? A Yes, sir.
Q Do you know what became of Joshua during the war? A No, sir, I don't know nothing about him.
Q When did you first see him back in the Cherokee Nation after the war? A Well, sir, I just can't remember what time it was I saw him back.
Q Well, where did you see him when you saw him here? A The first time I saw him after the war was up here at Vera Cruz.
Q At what place? A Sequoyah Band.
Q Do you know how long ago that was? A Well, that was something before 1880.
Q Do you know how long before 1880? A No, sir.
Q Do you know where he was in 1880? A No, I don't know where he was in 1880.
Q Do you know where he was in 1886? A No, sir, I don't.
Q Did you know his mother, Esther Holt? A Yes, sir, I am acquainted with her.
Q Do you know where she was in 1886? A No, sir, I don't.
BY MR. HASTINGS:

Q Where did you live before the war, Columbus? A Right across Grand river in Saline district.
Q Where did Joshua Holt and hismother live? A In Illinois district.
Q How far was that from you? A When I got acquaintedwith them I was working at John Daniels' in Canadian district.
Q How far were you working from him? A Just across the river there at John Daniles at the old place.
Q You were working there when the war came up? A Yes, sir.
Q And you knew these people? A Yes, sir.
Q You didn't see them for years after the war? A No, sir.
By Com'r Needles: Did you know Joshua's wife's father and mother? A Yes, sir.
Q What was their names? A Anderson Johnson was her father and Dinah was her mother.
Q Were they slaves? A Anderson Johnson was, I don't know anything about their mother.
Q Do you know whether they were married or not? A No, sir.
Q Do you know they lived together as man and wife? A Yes, sir.
Q How long? A I can't say, they were living together when I saw him.
Q Do you know how many children they had? A No, sir, I don't know how many children they had at all.
Q Where was that? A It was on Big creek when I got acquainted with him.
Q After the war? A Since the war.
Q You never knew them at all before the war? A No, sir.
Q You know Jane you say? A Yes, sir.
Q Where was Jane living when you first knew her? A She was living there with her father.
Q Was she married? A No, sir.
Q Living with her father Anderson? A Yes, sir.
Q Do you know whether Anderson went out of the nation during the war? A I wasn't acquainted with him.
Q Don't know whether he went and when he came back? A No, sir.
By Mr. Hastings: Did you ever know Joshua Holt in Fort Scott? A No, sir.
Q Did you know his mother, Esther? A No, sir, I never seen either one of them up there.
Q How long has Joshua been up to Vinita? A I ain't able to say, 12 or 13 years anyway.
Q How long has his mother? A She has been there about as long as he has.
Q How long has Tecumseh been there? A They come there together. They come there about the Wallace court, before the Wallace court, and been there ever since; Joshua lived there before that time.
Q The Wallace court was in 1899 wasn't it? A I guess so, I didn't take any particular notice.

JOSHUA HOLT, the applicant, recalled. By Com'r Needles:
Q Joshua, did Anderson Johnson, your father-in-law, go out of the Cherokee Nation during the war? A He was a soldier.
Q In what army? A In the 44th or 48th United States Infantry Colored, 48th I think.
Q Where was he discharged, do you know? A I think he was discharged at Fort Leavenworth.
Q When did he return to the Cherokee Nation? A '66.
Q How do you know that? A I saw him on Big creek.
Q In '66? A Yes, sir.
Q Was his wife living there with him then? A Yes, sir.
Q Jane your wife living with him? A She was born on Big creek.
Q You saw him there in '66? A Yes, sir.
Q Was he there when you come or you come before him? A He was there when I come.

COM'R NEEDLES:--Joshua Holt applies for the enrollment of himself, his wife, Jane, his two stepchildren, Laura and Ella Beason, and his own four children, Jessie, Willard, Clifford and Maucelia Holt. He cannot be identified upon the authenticated roll of 1880 or census roll of 1896, upon examination; neither can his wife. He is identified as well as his wife on the Kern-Clifton and Wallace rolls according to the page and number of the rolls as indicated in the testimony, and his older stepchild, Laura, is identified upon the Wallace roll and Kern-Clifton roll. His remaining stepchild and his own children, Jessie, Willard, are identified upon the Kern-Clifton roll. His two children, Clifford and Maucelia, are not identified upon said rolls, having been born after said roll was compiled. He avers that he is a child of Esther Holt, and that his wife is the daughter of Anderson and Dinah Johnson. He avers that Dinah Johnson was a slave of a citizen of the State of Arkansas, and that Anderson Johnson was a slave of a Cherokee citizen. He also avers that Anderson Johnson, father of his wife, was a United States soldier and returned to the Cherokee Nation in the year 1866, where his wife, Jane, was born. Anderson Johnson being a Cherokee slave and his wife, Dinah being a slave of a citizen of the State of Arkansas, it will be necessary to make satisfactory proof of the marriage between the said Anderson Johnson and the said Dinah Johnson in order to establish the citizenship of his wife, Jane; and it will also be necessary for satisfactory proof of marriage to be made between Joshua Holt and his wife, Jane, in order to establish the citizenship of his children, in case the citizenship and marriage of Jane's mother is not fully proven. By reason of the facts as set forth in the testimony, said Joshua Holt, his wife, Jane, and his two stepchildren, Laura and Ella Beason, and his four children, to-wit: Jessie, Willard, Clifford and Maucelia, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. The fact that his two children's Clifford and Maucelia, names do not appear upon any rolls of the Cherokee Nation it will be necessary for him to file satisfactory proof of birth as to said children.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recordee the test mony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 21st day of June, 1901.

(Signed) T. B. Needles,
Commissioner.

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Supplemental Testimony in C.F. D.#644.

Joshua Holt et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 20th, 1901.

Mellette & Smith, Attorneys for applicants present;
W. W. Hastings, present for the Cherokee Nation.

DANIEL SANDERS, being sworn by Commissioner T. B. Needles, testified as follows, for the applicant: By Mr. Smith:

Q What is your name? A Daniel Sanders.
Q Where do you live? A In the Cherokee Nation.
Q Do you know Anderson Johnson? A Yes, sir.
Q Do you know Dinah Johnson? A Yes, sir.
Q What relation are they? A Man and wife.
Q Where did you first know Anderson Johnson? A In the army.
Q Where did you first know his wife? A At Fort Gibson.
Q Do you know if Anderson Johnson was a slave? A Yes, sir.
Q Who did he belong to? A Ben Johnson.
Q Was he an Indian? A He was a white man married to a Cherokee Indian woman.
Q Was she a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Who did Dinah Johnson belong to? A She came from the states where she belonged to the Funkhousen family.
Q When did Anderson and Dinah marry? A After the war.
Q Do you know if they have any children or not? A Yes, sir, they have.
Q What are their names? A Mary was the oldest one I believe.
Q Do you know the names of any of the others? A I never paid much attention to them.
Q Do you know where they are now? A They are at Vinita.
Q Are they married or single? A Mary is married.
Q Who is she married to? A Joshua Holt.
Q How is that Mary or Jane? A Jane, yes, it is Jane.
Q Who is the oldest then? A Jane is.
Q You said a while ago that Mary was the oldest? A I know but I think now Jane is.
Q And she is married to Hoshua Holt? A Yes, sir.
Q Do you know where Jane was born? A In the Cherokee Nation.
Q Close to where you live? A Yes, sir, 6 or 7 miles.
Q Don't you know where Mary was born? A Must have been born there too.
Q Do you know any of the other girls? A I think there was three girls in all.
Q Do you know the name of the other one? A I don't know.
Q Would you know it if you heard it? A Yes sir.
Q Was it Ruth? A Yes, sir.
Q Where were these children born and raised? A On Big creek mostly.
Q How long has Jane been married to Joshua Holt? A Ten years or longer.
Q Do you know when Anderson Johnson came back to the Cherokee Nation? A Yes, sir, in '86 with us.
Q Do you know when Dinah came back? A I don't know exactly the time.
Q Are they living or dead? A Both dead.
Q Where did they die? A Anderson got killed close to where he lived.
Q How long ago was that? A I think it was in '78.
Q How long did Anderson and Dinah live together there? A Until he died.
Q From what time? A I don't know just exactly when he married. Must have been in the fall of '65.
Q And from that time until he was killed they lived together? A Yes, sir.
Q Did they keep house up there? A Yes, sir.
Q Were they received in your community as man and wife? A Yes, sir, I never knowed any difference.

Q What time of the year was it that Anderson Johnson came back here? A Long in August '86.
Q What part of the nation did he come to? A Big creek.
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir.
Q On the roll of 1880? A Yes, sir.
BY HASTINGS: Did you know Johnson's wife before the war?
A No, sir.
Q She was a state raised woman? A Yes, sir.
Q Where did you see her first to know her? A In Kansas, I knowed her stepfather before that.
Q What was his name? A Rube Funkhouse.
Q Did she have any children before she and Anderson Johnson married?
A No, sir.
Q How old was she when they married? A She wasn't very old.
Q Were they married in Kansas? A I think so.
Q Did he bring his wife with him who he came with you folks?
A Not the first time.
Q What time was it that he came down with you, what time of the year? A Long in '86, long in the month of August.
Q Was that when some of you men folks come in advance?
A Yes, sir.
Q Did you have your family with you? A No, sir.
Q They all went back afterwards and brought their families?
A Yes, sir.
Q When did Anderson Johnson bring his wife there? A I don't know just exactly when it was.
Q Can't you be positive as to whether that eldest child was born in the Cherokee nation or in Kansas? A In the Cherokee Nation, I think, I never heard of her having any children in Kansas.
Q How far did he locate from you? A 7 miles, between 6 and 7 miles close to Albert Harris.
BY SMITH: What time did Anderson Johnson bring his wife down there? A I don't know exactly the time, shortly after that, shortly after he came himself.
Q What is your best judgment? A Not long after he came himself.
Q As much as six months? A Can't have been any longer.
BY HASTINGS: This woman has had some children born to her since her first husband was killed? A I think so, one.
Q What is that child's name? A I don't know, it is a boy.
Q How long after her husband's death before this boy was born?
A I can't tell you that.
Q Two or three years? A Yes, sir, I guess so.
Q He is about grown now? A I haven't seen him for quite a while.
Q Don't know his name? A No, sir.

REUBEN SANDERS called and sworn as a witness for the applicant. By Smith:
Q What is your name? A Reuben Sanders.
Q Where do you live? A On Big Creek.
Q Are you a citizen of the Cherokee nation? A I am.
Q On the roll of 1880? A I am.
Q Do you know Anderson Johnson? A I do.
Q Did you know a woman named Dinah Johnson? A Yes, sir.
Q Do you know what relation they were to each other? A Man and wife.
Q When did you get acquainted with Anderson Johnson? A When he came out of the army.
Q When did he come to the Cherokee nation after the war? A With us in our wagon.
Q When? A Long in the summer of '86.
Q Was he married then? A He was not.
Q When did you first become acquainted with his wife? A In Kansas.

Q When did you first see her in the Cherokee Nation? A I don't know exactly, several years after we came down here that I saw her down here.
Q Where do you live? A On Big Creek.
Q How far did you live from where Anderson Johnson was killed?
A About 7 miles.
Q Did they have any children, Anderson and Dinah? A They had several.
Q Any girls? A Yes, sir.
Q Do you know the name of the oldest girl? A I don't know if I do or not.
Q What are the names of those you remember? A Mary, I don't know much about the girls.
Q Do you know if any of these children are married? A One is married to Josh Holt.
Q Where does she live? A In Vinita.
Q How long did Anderson and Dinah live together? A From the time they married until he was killed, I don't know exactly the number of years.
Q How long since he was killed? A I think about 16 years.
Q Do you know when they married, Anderson and Dinah? A I don't know the exact date, it was somewhere about 5 or 6 years after he came here.
Q Did you see them married? A No, sir, but I know they occupied a house and kept house there and lived together as man and wife.
Q How were they recognized by the neighbors there? A As man and wife.
Q Do you know when these children of theirs were born? A No, sir.
Q Were they born while they were living together as man and wife?
A Yes, sir.
Q Where were they born? A On Big Creek, there where they lived.
Q In the Cherokee Nation? A Yes, sir.
Q Do you remember which one of the girls, Josh Holt married? A No, sir, I don't believe I remember her name.
Q Do you know whether she is the oldest child or not? A No, sir, I don't.
Q Do you know whether she was born? A No, sir, not exactly, but to my best judgment they was all born in the Cherokee Nation on Big creek.

By Hastings: With whom did Anderson Johnson first live when he came down here? A Where I live.
Q You all first came down in August and then went back?
A Yes, sir.
Q You say Anderson wasn't married then? A No, sir.
Q His wife was up in Kansas then? A She wasn't his wife at that time.
Q The woman that he afterwards married was in Kansas then?
A Yes, sir.
Q He afterwards went up there and married her? A Yes, sir, and then brought her back with him.
Q Did you know his wife before she married him? A Yes, sir.
Q Where did she live? A There in Fort Scott.
Q And your recollection is that some 4 or 5 years after you all came down that she came here as Anderson Johnson's wife?
A Yes, sir.

---o---

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause, and that the foregoing is

a full, true and correct transcript of his stenographic notes thereof.

[illegible] Reporter.

Subscribed and sworn to before me this the 11th of June, 1901.

[Signed] W. T. Needles
Commissioner.

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To be filed in case of Jane Holt, et al., C.T.B.v644.

Department of the Interior.
Commission to the Five Civilized Tribes,
Nowata, I. T., June 26, 1901.

In the matter of the application of Ruth Chinnett for the enrollment of herself and 3 children as Cherokee freedmen; being sworn and examined by Commissioner Needles, she testified as follows:

APPEARANCES:
Mr. Louis Brown, for the applicant;
Mr. W. W. Hastings, for the Cherokee Nation.

* * * * * * * * *

SAM TOBLER, being sworn by Com'r Needles, testified as follows: By Mr. Brown:

Q What is your name? A Sam Tobler.
Q Mr. Tobler, do you know Anderson Johnson and Sarah Johnson, the mother and father of said applicant? A Yes, sir.
Q You know whether they were ever married or not?
A I couldn't tell you whether the wedding. They were living together as man and wife.
Q So recognized in the community? A Yes, sir.
Q Were they living together as man and wife at the time this applicant was born? A Yes, sir.
Q You know this girl's age? Mary Johnson? A Yes, sir.
Q At the time she was born were they living together as man and wife? A Yes, sir.
Q Did you testify for Jane Holt in the Jennie Holt case? A I did a years ago, I don't [illegible]
Q You testified [illegible] Mary [illegible] case? A Yes, sir.
Q You didn't say anything [illegible] then? A He never asked me; I didn't have no [illegible] asked me.
Q When did you first see [illegible] mother of this girl [illegible] over here and settled down [illegible] there. I don't know [illegible] be married [illegible]
Q [illegible] A [illegible] I can't give you just when [illegible]
Q [illegible] long after the war was it? A I couldn't tell you that and be [illegible] in it.
Q [illegible]
A [illegible]
Q [illegible]
Q [illegible]
A [illegible]
Q You testified a while ago [illegible] do you remember [illegible]

Q You don't remember how long after that when you saw him living with this woman? A No, sir, I couldn't say positive, but they was living together as man and wife on the creek there when he got killed, and had been for several years.
Q You remember just what year he got killed? A No, sir.
Q You don't remember just about how long after he come down there? A No, sir.
Q The circumstance of his getting killed isn't as great as the circumstance of your first seeing him after the war? A I don't know, it might be greater for all I know, but I never paid no particular attention.
Q About what is the first date that you are willing to swear that you saw them living together as husband and wife? A I tell you I never paid no attention to it, so many people married, I can't keep the dates of all of them, of of course I didn't try.
Q I am not asking you, Mr. Webber, the exact date, but how long ago, now when they first began living together, but about how many years ago are you willing to testify you saw them living together? A I don't know, I couldn't be positive about that.
Q Did they have any children when you first saw them living together as husband and wife? A When I first saw them they didn't have any
Q Do you have any idea how old this woman is, (indicating applicant A No, sir, not exactly.

By Com'r Needles: Well, Mr. Webber, how long did they live together as husband and wife according to your best recollection, your knowledge? A I declare I couldn't answer that correct.
Q Did they raise a family there? A Raised them right there on the creek, three children.
Q While they were living togetheras man and wife they raised a family? A Yes, sir.

By Mr. Hastings: You don't know where he got the woman? A No, sir, I couldn't tell you.
Q How far did they live from you? A About 10 miles I guess, as near as I can guess at it.

Kern-Clifton pay roll of citizens of the Cherokee Nation examined and applicant identified at page 144, #3581, Chidnett, Holt, Coowescoowee district.

o o o o o o o o

SAM WEBBER, witness, recalled and further examined by Mr. Smith: (Of McAlester & Smith.)

Q Did you know Jane Holt? A Yes, sir.
Q Whose wife is she now? A John Holt's.
Q Whose child is Jane Holt? A Tom's Anderson Johnson's child, by Dinah, his wife.
Q And the mother? A Dinah I said.

MR. SMITH: At the Court's pleasure, I would like a copy of the statement of Sam Webber taken in this case, filed with D'Arcy.

o o o o o o o

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original stenoscript of the testimony of Sam Webber in cause styled same.

(Signed) M. D. Green.

Subscribed and sworn to before me this October 27th, 1905.

(Signed) T. B. Needles,
Commissioner.

RECEIVED
SEP 12 1903
DEPARTMENT OF THE INTERIOR
INDIAN TERRITORY

-90-

J. O. Rosson, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he copied the foregoing and that same is a true and complete copy of the original testimony and proceedings in the above case.

J. O. Rosson

Subscribed and sworn to before me this September 12th, 1903.

Commissioner.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Tecumseh Holt, et al., as Cherokee Freedmen, consolidating the applications of--

Tecumseh Holt, Cherokee Freedmen D-653.
William Holt, Cherokee Freedmen D-694.

DECISION.

The record in this case shows that applications for enrollment as Cherokee freedmen were made to this Commission by Tecumseh Holt for himself and by William Holt for himself. A copy of the testimony taken at Chelsea, Indian Territory, on June 10, 1901, in Cherokee Freedmen D-644, and a copy of the testimony of Sam Webber taken at Nowata, Indian Territory, on June 26, 1901, in Cherokee Freedmen D-866, are filed herewith and made a part of the record in this case.

The evidence shows that the applicant, Tecumseh Holt, was the slave of a Cherokee citizen at the commencement of the rebellion; that during said rebellion he left the Cherokee Nation and did not return thereto and establish a residence therein within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation. The evidence further shows that the applicant, William Holt, is the son of the said Tecumseh Holt; that he was born since 1866 and has no right to enrollment except through his said father.

It does not appear that either of the applicants is identified on the 1880 authenticated Cherokee Roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Tecumseh Holt and William Holt as Cherokee freedmen should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chairman.

Commissioner.

T. R. Breckinridge.
Commissioner.

W E Stanley
Commissioner.

Muskogee, Indian Territory,
this [illegible]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
JUN 26 1901

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 26th, 1901.

Received of the Commission to the Five Civilized Tribes, one copy of the original testimony of June 10th, 1901, in the matter of the application of Tecumseh Holt for enrollment as a Freedman of the Cherokee Nation.

Mellette & Street

Attorneys for Applicants.

Cherokee F. #D653.

Nat'l D. 163

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the ..... day of ..... A. D. 1901

Given under my hand this .....

day of ..... A. D. 1901.

.....

Marshal for the Cherokee Nation.

---

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the ..... day of Sept. 5, 1901.

.....

Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the ..... day of ..... A.D. 1901

.....

Subscribed and sworn to before me this ..... day of ..... A.D. 1901.

.....

Notary Public.

---

...FIVE CIVILIZED TRIBES.

FILED
SEP 13 1901

ACTING CHAIRMAN.

# NOTICE!

*IN THE MATTER OF* the application of Tecumpse Holt for enrollment as a Cherokee citizen:

Case No. D 653

To Tecumpse Holt or Mallette & Smith his Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on Oct. 5th at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 17 1901

L B Bell

W. M. Hastings

*Attorneys for the Cherokee Nation.*

COPY.

Cherokee Freedmen
D-653

Muskogee, Indian Territory, March 24, 1904.

Tecumseh Holt,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting, among others, your application for enrollment as a Cherokee freedman. Your attorney, Edgar Smith, Vinita, Indian Territory, has heretofore been furnished with a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Register
Rms. D-78

Cherokee Freedmen
D-653, D-694.

Muskogee, Indian Territory, March 24, 1904.

Edgar Smith,

Attorney for Tecumseh Holt et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting the applications for the enrollment of Tecumseh and William Holt as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Register — Commissioner in Charge.

Enc. D-74.

COPY.

Cherokee Freedmen
D-655, D-694.

Muskogee, Indian Territory, March 24, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 8, 1904, rejecting the applications for the enrollment of Tecumseh and William Holt as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles

Commissioner in Charge.

Enc. D-75.

COPY.

Cherokee Freedmen
D-655, D-694.

Muskogee, Indian Territory, March 24, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Tecumseh Holt et al., including the Commission's decision, dated March 5, 1904, rejecting the applications for the enrollment of Tecumseh and William Holt as Cherokee freedmen.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Through the Commissioner of Indian Affairs.

Enc. D-76.

Copy.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 17, 1904.

Refer in reply to the following:

Land.

20536-1904.

The Honorable

The Secretary of the Interior.

Sir:

I have the honor to enclose herewith a report from the Commission to the Five Civilized Tribes, dated March 24, 1904, transmitting the record of the application of Tecumseh Holt for himself and his son, William Holt, for himself for enrollment as Cherokee freedmen.

March 5, 1904, the Commission found that the applicants were not entitled to enrollment as Cherokee freedmen.

The evidence shows that the applicant, Tecumseh Holt, was the slave of a Cherokee citizen at the commencement of the war of the rebellion, that during the war he left the Cherokee Nation and did not return and establish a residence therein on or before February 11, 1867. The evidence further shows that William Holt is the son of Tecumseh Holt and a State woman; that he was born in the year 1870 and has no right to enrollment except through his father, Tecumseh Holt.

It does not appear that the name of either applicant is identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

MMM

C

W.C.F.

DEPARTMENT OF THE INTERIOR, THE J.P.

D.C. 21700-1904.
I.T.D. 5028-1904.
L R S

WASHINGTON. June 23, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

March 24, 1904, you transmitted the record in the consolidated case embracing the applications of Tecumseh Holt et al (F.D-653, D-694), for enrollment as Cherokee freedmen, including your decision of March 5, 1904, rejecting said applications.

Reporting June 17, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock.

Secretary.

1 inclosure.

Cherokee Freedmen
D 655

Muskogee, Indian Territory, June 30, 1904.

Tecumseh Holt,

Vinita, Indian Territory.

Dear Sir;

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting, among others, your application for the enrollment of yourself as a Cherokee freedman, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

Cherokee freedmen
D 694 & D 653

Muskogee, Indian Territory, June 30, 1904.

Edgar Smith,
Attorney for William Holt, et al.,
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting the applications for the enrollment of William and Tecumseh Holt as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 204 & D 685

Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting the applications for the enrollment of William and Tecumseh Holt as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 25, 1904.

Respectfully,

Commissioner in Charge.

MEMORANDUM OF APPLICATION

# CHEROKEE FREEDMEN

Date JUN 10 1901

Post Office Vinita, I.T.

District Coo

1. Name Tecumseh Holt Age 30

Owner's name Wm and Nellie Holt Citizenship Cherokee

Year ____ Page ____ No ____ District ____

Parents:

Father Fox Holt - dead Citizenship ____

Mother Esther Holt - living Citizenship ____

2. Name of wife ____ Age ____

Owner's name ____ Citizenship ____

Year ____ Page ____ No ____ District ____

Parents:

Father Doubtful Citizenship ____

Mother ____ Citizenship ____

Names of Children:

3. Nil Year ____ Page ____ No. ____ Dist. ____

4. ____ Year ____ Page ____ No. ____ Dist. ____

5. ____ Year ____ Page ____ No. ____ Dist. ____

6. ____ Year ____ Page ____ No. ____ Dist. ____

7. ____ Year ____ Page ____ No. ____ Dist. ____

8. ____ Year ____ Page ____ No. ____ Dist. ____

9. ____ Year ____ Page ____ No. ____ Dist. ____

10. ____ Year ____ Page ____ No. ____ Dist. ____

11. ____ Year ____ Page ____ No. ____ Dist. ____

12. ____ Year ____ Page ____ No. ____ Dist. ____

Application made by Nat Stenographer Chas. W. Ware

Mellette and Smith, Attys. for applicant.

X Ref D. 644

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Tecumseh Holt,
Vinita, I. T.
Cherokee-F-D-653.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cher. Fr. R. 400

See Cher. Fr. R. 401, 2, 3

Cher. Fr. R. 400

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 29th, 1901.

In the matter of the application of Charles Brown for the enrollment of himself and two children as Cherokee Freedmen; said Brown being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Messrs. Mellette & Smith, for Applicants.
Messrs. Hastings and Davenport, for Cherokee Nation.

Q What is your name? A Charles Brown.
Q How old are you? A 72 .
Q What is your post office? A Ruby.
Q What district do you live in? A Coowescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman?
A Yes, sir
Q Who do you want to enroll besides yourself? A Couple of children.
Q What are their names? A Louvina.
Q How old is she? A 20.
Q The name of the next child? A Joseph.
Q How old is Joseph? A 18.
Q Are you married? A No, sir, my wife is dead.
Q What is your wife's name? A Sarah Jane.
Q She is the mother of these children? A Yes, sir.
Q Have you the custody of these children now? A Yes, sir.
Q Living with you? A Yes, sir.

BY MR. SMITH:

Q Mr. Brown what did you sawy your wife's name was?
A Sarah Jane.
Q When did you marry her? A Oh, away before the war.
Q Where were you living at the time you married your wife?
A I was hired out, down to Van Buren.
Q Who hired you out? A Old Judge Brown my old owner, his right name is Jim Brown.
Q Well, were you a slave were you? A Yes, sir.
Q Was Jim Brown an Indian, a Cherokee Indian? A Yes, sir.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Where was he living at the time the war commenced?
A Living on Lees Creek.
Q Is that in the Cherokee Nation or not? A Yes, sir, in the Cherokee Nation.
Q How far is that from Van Bu ren? A About 16 miles.
Q well, these children for whom you apply who is the mother of t hese children? A She was state raised woman she was.
Q The mother of those children? A Yes, sir.
Q When did you marry her? A She is the one I married.
Q I didn't ask you what she was, I asked you who was the mother of Louvina and Joseph? A Sarah Jane.
Q Did you have children older than Louvina and Joseph? A Yes, sir, there were six more older.
Q Do they intend to apply before this Commission for enrollment?
A Yes, sir.
Q well, you can give their names, if any of them are married give their full names as they now appear? A The oldest one is named Mose Brown.
Q The next one? A Abbie Worley now, she is married.
Q The next one? A John Brown.
Q Well? A Next one is Charley.
Q Well? A ... and pen and Wash; that is all of them.
Q Where does Charley live? A He lives up on Big Creek here.
Q In the Cherokee Nation? A Yes, sir.
Q Married or single? A He is married.
Q Where does Wash live? A Wash is living right over the river about three or four miles.
Q Three or four miles from yonder? A Yes, sir.

Q Married or single? A He is married.
Q Where does John live? A John lives on Panther Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Married or single? A Well, that was his woman that made application.
Q Separated from his wife? A Yes, sir.
Q Well, where does Abbie live? A She is in Vinita.
Q Married or single? A She is married.
Q What is her husband's name? A Worley.
Q What is his first name? A I think is name is Charley Worley.
Q Well, new, the other two I haven't asked you about, where do they live? A Sam is out in Oklahoma.
Q How long has he been out there? A He has been out there five or six months.
Q Where did he live before he went there? A He lived here.
Q Well, the other one? A They is the two, Louvina and Joe.
Q You have told where all of them live except Louvina and Joe ?
A I told you where they live.
Q Have you give the names and residence of all of your children except Louvina and Joe? A Well, I ha e give them too, ain't i just t ld him where they live.
Q well, have you give the names of all and where they live outside of them? A Yes, sir.
Q Where is Louvina living? A Living with her brother Charley.
Q Where does Joe live? A He is living with Joe Riley's son, Will Riley.
Q Which is the oldest one of these children? A Moses.
Q How old is he? A He is about 41 or 2 years old.
Q Give me the names of these who were born before the war?
A Mose and Abbie were born before the war.
Q Where were the others born? A John was born during the war and the other was born since.
Q Well, you say you and your wife were married 40 years ago?
A Yes, over 40.
Q You lived together after the war? A Yes, sir.
Q Where did you and you r wife live? A We lived in the Nation.
Q Where did she die? A She died down here on Panther Creek.
A In the Cherokee Nation? A Yes, sir.
Q Were you living together when each of these children you have named, when they were born? A Yes, sir, lived together until she died.
Q well you say you were a slave of Jim Brown? A Yes, sir.
Q Were yo? taken out of the Nation or did you go out of the Nation while the war was going on? A Yes, sir, I went up to Fort Scott.
Q What time did you come back to the Cherokee Nation after the war? A I come back in time of the war; I was working for the Government down here to Gibson all during the war.
Q Well, how long did you sty at Fort Scott? A I stayed there until the war ceased; I didn't stay there I stayed down here in the Nation, and I went back after my family after the war ceased.
Q Well, what time did you bring your family after the war ceased?
A I come the year or two before I brought my family.
Q When did you bring your family? A I thin k it was in 70 I brought them down.
Q Where did you live y ourself during the war?
A I was in Fort Gibson.
Q Where were you in '66? A I was here in the Territory.
Q At what place? A I was down to Gibson.
Q Were you there all the year or part of the year?
A No, I was just there a little while; I had a brother down there and I went down there to see him.
Q Well, what time in the year was that? A '66.
Q What time of the year? A Along in the fall.
Q How long did you stay about Fort Gibson that time?
A I didn't sty but a short time.

Q Where did you go then? A I come on back up in the country.
Q Whereabouts? A I come on Big Creek.
Q In the Cherokee Nation? A Yes, sir.
Q How long did you stay up on Big Creek?
A I stayed there a little while, didn't stay very long.
Q Then where did you go? A I went on back after my family.
Q Well, when did you come back with your family? A I went back that winter.
Q When was that? A Winter of '66 ('66)
Q How long did you stay when you went after your family?
A I stayed until the next spring, '70, along there in '67.
Q Well, when you said you brought your family here in '70 a while ago, is that correct? A No, sir, I brought her along in '67.
Q Did you know what time of the year it was you brought your family? A It was along in the summer.
Q What did your family consist of at that time, of yourself and children had been born? A Had three.
Q Where were the rest of them born? A They was born in the Nation.
Q What Nation? A Cherokee Nation.
Q How old was the oldest one of these three children you brought back at the time you speak of? A They must have been.
Q The oldest one? A The oldest one must have been five or six years old.
Q Where have you been living ever since that time?
A I have been right here in the Territory ever since.
Q Are you on any of the rolls? A I am on one, Wallace roll.

The 1880 Authenticated Roll, the 1896 Census Roll, and Kern-Clifton Payroll of Freedmen of the Cherokee Nation examined and names of applicants not found thereon.
The Wallace Roll of Freedmen of the Cherokee Nation examined and names of applicants found thereon, as follows:
Page 103, #2204, Charles Brown, Coowescoowee District.
Page 103, #2208, Luvina Brown, Coowescoowee District.
Page 103, #2209, Joseph Brown, Coowescoowee District.

BY MR. DAVENPORT:
Q You belonged you say to Judge Jim Brown when the war broke out?
A Yes, sir.
Q Were were you living at the time the war broke out?
A I was living right home.
Q At Home? A Yes, sir.
Q Did you know a man by the name of Jim Scott who lived in Arkansas before the war broke out? A Yes, sir.
Q I will ask you if you were not working for him and and was owned by him at the time the war broke out? A No, sir.
Q What children did Jim Brown have? A He never had any children in his life.
Q What stepchildren did he have? A Had one.
Q What was her name? A Her name was Nancy.
Q Had Jim Brown a wife? A Yes, sir, Jim Brown had a wife.
Q Where was she living at the time the war broke out?
A Living on Lees Creek.
Q Where was Nancy living? A She was living about two or three miles from her mother's.
Q She is now Mrs. Nancy Seabolt? A I think so.
Q Have you seen her since the war? A No, I heard she was dead.
Q You have never went back to the old place after the war?
A No, sir.
Q How far did Jim Scott live from the Cherokee line?
A He lived right on the line.
Q He lived on the Arkansas side? A Yes, sir.
Q Now, you went to Fort Scott in what year? A I went to Fort Scott in 1861.

Q You were married at that time? A Yes, sir.
Q Did you have any children at the time you went to Fort Scott?
A Woman had two.
Q Were they your children? A Yes, sir.
Q You went then to Fort Scott about what year? A I went up there in ' 61 afterthe war broke out.
Q How lon g had you been married before the war broke out?
A Four or five years, two or three years.
Q Well, now, when you came back from Fort Scott to what point did you come? A After I went up in '61?
Q Yes. A I come down to Gibson, I come to Gi bson driving a Government team.
Q You testified before the Kern-Clifton Commission? A Yes, sir.
Q Did you testify x before that Commission anything about being in the Government service? A I t hink I did.
Q When was it you went to Snow Creek if at all? A I have been u p to Snow Creek lots of times.
Q Well, then, immediately after the war did you come to Snow Creek then? A I come through there.
Q Did you stop with anybody? A I come on down to Big Creek and stopped with Moxse Smith.
Q When did you go to Pyrors Creek, on Pry or Creek, I didn't mean the Pryor Creek town? A I went down there some eight or ten years after I came back.
Q That is when you went down there where the Rileys and McNairs were living? A Yes, sir.
Q That was eight or ten years after you came back? A Yes, sir.
Q When was it you stayed all night with Dave French?in this country?
A That was when I went up to Fort Scott, away along in '70.
Q That was when you brought your family down?
A No, I had my family here.
Q Where was your family living when you stayed all night with Dave French? A My family was living down on Pryors creek.
Q Where was your family living when you went down to the Rileys and McNair on Pryors creek? A The first time I went down there t hat wasafter I had been here I was living up at Gooseneck when I went down there.
Q Where was Dave French living when you stayed with him?
A Up where he is.
Q That was about '75? A Yes, sir, somethere along in there.
Q You had been back about five or six years when you stayed all night with Dave French? A Yes, sir.
Q All of your children were born in the Cherokee Nation?
A I didn't say that.
Q Which of them were born out? A One of thm was born in Kansas.
Q Now, which is it? A One.
Q Which one was that that was born in Kansas? A John, John was born in '65, 12th of February, '65.
Q You were then living in Kansas? A Yes, si r.
Q Who lived near Jim Brown ever there when you were living with him? A My God I could not tell you.
Q Do you remember any of their names? A There was full blood Indians, there was a number of Indians lived arou nd there.
Q Do you remember any of their names? A Ewnidaep, Young Fawn and Jim Brown was living with his uncle.
Q You have never gone down t here to see your young Master or your old Mistress to testify for you? A N o, sir, I would not give anything for an Indian to testify for me.
Q You would not let one testify for you? A No, sir, unless I was acquainted with him.
Q You were well acquainted with Nancy Seabolt? A Yes, sir, we was children together.
Q You would not let her testify? A No, sir, I would be afraid you would be going around and talking to her.
Q How long did you go by the name of Will Thomas? A I never did go by the name of Will Thomas.

Q Did you ever go by the name of Bill Thomas? A No, sir.
Q Did you ever go by any other name other than Charley Brown?
A Yes, sir.
Q What name did you go by? A Bill Thompson.
Q Where were you living when you went by the name of Bill Thompson? A I was living up there.
Q What country? A Fort Scott.
Q How long did you go by the name of Bill Thompson at Fort Scott, Kansas? A I went by the name, t hat an d I go by the name of it yet, lots of them calls me Bill Thompson.
Q How long did you go up there by the name of Bill Thompson?
A As long as I stayed there.
Q How long did you stay there? A Until I come back.
Q How long was it until you come back? A Along in the fall of '61.
Q When did you go there? A In '61.
Q And come back in '61? A Yes, sir.
Q How did it happen that you went by the name of Bill Thompson?
A They give me the ni ckname.
Q Who nicknamed you? A I don't know who it was, but I was down here to Gibson and they give me another name down there.
Q Did you have the name of Bill Thompson when you were working for Bill Scott in Arkansas? A No, si r.
Q What name did you go by there? A Charley Brown.
Q What name did they give you at Fort Gibson? A Charley Brown.
Q That wasn't a nickname? A Charley brown is my right name.
Q You have just gone by the two names? A Yes, sir, and sometimes they call me Brock.
Q How did they happen to call you Brock? A They just got to devilling me.
Q How long did you stay about Gibson? A I stayed there until '65.
Q Near whom were you living? A I was in the Government service, scouting.
Q How long were you a scout for the Government? A About four months.
Q Who lived at Fort Gibson at that time? A Everybody of the soldiers.
Q What were you doing there? A I was going around with the soldiers, driving a government train, I drove three years and six months and I quit that and went with Pole Childers in the scouting gang.
Q Was Conong Vann living there at that time?
A I don't think he was.
Q Was Jim Vann living there then? A I don't know.
Q Was F. M. Nash? A Yes, Nash was there I recollect him.
Q Was Aunt Ann Brown living there then? A Yes, sir.
Q What part of town did she live? A I think she lived back of Persel's store.
Q What time did Jim Scott come there?
A He never did come there; Jim Scott was dead then.
Q Where did he die? A He died before the war they said; said he died in '59.

L. D. DANIELS, being sworn by Commissioner T. B. Needles, test ified as follows: BY MR. SMITH:

Q State your name? A L. D. Daniels.
Q Where do you live? A Claremore.
Q How long have you lived in the Cherokee Nation? A All my life.
Q How old are you? A 56.
Q Do you know this applicant, Charles Brown, here? A Yes, sir.
Q How long have you known him? A I have been known him I got acquainted with him at Fort Scott in '65.
Q You didn't know him before the war? A No, sir.

Q Do you know where he was in 1866? A Yes, sir, I do.
Q Where? A I believe it was in December or just after Christmas I met him and his Uncle in Fort Gibson.
Q Just after Christmas? A Yes, sir, in '66.
Q How long after Christmas? A It wasn't long, three or four days or such a matter.
Q Was tha or was it not the first time you had seen him at Fort Scott in '63? A Yes, sir, about the first time I seen him after that I seen him about once before that, I seen him in '63 in Fort Scott an d I seen him in Christmas '64 and the third time was in Fort Gibson.
Q Well was the third time you are speaking of now? A Yes, sir.
Q How many times did you see him there? A Two or three times with Steve, I will call his name; I think he was his Uncle; I said some relation, I don,t know whether it was his uncle, brother or who it was.
Q How long did you stay at Fort Gibson after Christmas, '66?
A I stayed there xxxx all the time until '75, until the 5th day of July, '67.
Q Do you know where Charles Brown lives now? A Yes, sir, he has been living close to Chelsea before that he lived up there in five miles of me.
Q ow long since he left the place five miles from you?
A Five or six years.
Q Well, about when was it you saw him next after you saw him down there at Fort Gibson? A I t was up to, I met him up here at Goose Neck.
Q When? A I am just thinking how long it has been, I don't know when ju st exactly, it has been 12 or 13 years, may be a little longer or not so long.
Q You don,t know who he belonged to? A No, sir, I don't of my own knowledge.

BY MR. DAVENPORT:

Q You think it was sometim after Christmas and it was in '66?
A I know it.
Q Well, you lived there from '65 up until about '70?
A I lived there until 5th of July.

BY COM'R NEEDLES:

Q Of what year? A '67.

BY MR. DAVENPORT:

Q It was some time after Crhistmas from the time you went there until you left? A Yes, sir.
Q Yo don't know how long he stayed there? A No, sir.
Q Don't know where he went after you left there? A N o, sir.
Q And don't know to whom he belonged before the war?
A No, sir, only what I heard.

MOSE HARDRICK, being duly sworn by Commissioner T. B. Needles, testified as follows: BY MR. SMITH:

Q Stat e your name? A Mose Hardrick.
Q How old are you, Mr. Hardrick? A Pretty nigh 71.
Q How long have you live in the Cherokee Nation?
A Pretty nigh all my life.
Q Do you know this xxxxx man, Charles Bown? A Yes, sir.
Q How long have you known him? A Well, I knowed him pretty xxxxx nigh all through slavery.
Q Do you know who he belonged to? A Yes, sir; Jim Brown.
Q Was Jim Brown an Indian, Cherokee In dian? A Yes, s r.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q How far did you live from his owner, Jim Brown, during the war?
A I spect it was about between forty and fivty miles.
Q Where did you get acquaint ed with thi s man? A Down on Lees Creek, here in the Cherokee Nation.
Q Was that where his owner lived? A Yes, sir.
Q Where do you live? A I lived at Park Hill, and I had to go there in the fall to get some coal.
Q Did you go out of the Nation during the war yourself?
A Yes, sir.

Q When did you get back? A I bot back in the spring of '66.
Q When did you see Brown first in the Cherokee Nation after the war, thi s applicant? A I guess it must have been about '67 I first seen him, it was in cold weather.
Q You got back in the spring of '66, where were you in the time o f Christmas a fter you spring you got back? A On the place I made there.
Q Do you know how long it was after Christmas you saw this man?
A I don't know.
Q What time did you think it was in '67 when you saw him?
A I think it was as well as I can recollect about Dec ember.
Q Of '67? A Yes, sir.
Q Where was he when you saw him? A He was over on Grand Ri ver.
Q You don't kn ow how lon g he had been back in the Cherokee Nation at that time? A No, sir.
Q What was he doing over on Grand river?
A He was fixing to go to a dance.
Q Af ter that did you see him any more? A Yes, sir.
Q When did you next see him after that? A I guess it must have been a year or two years if my mind serves me right.
Q Then where did you see him? A Seen him on Panther Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Do you know where he is li ving now? A He is living with his son Charley.
Q In what part of of the neighborhood or what part of the c ountry?
A On Big Creek.
Q Do you know how long he has been living there? A No, sir, bu t he has been living with Charley pretty night ever since his wife died.
Q Do you know his wife? A A Yes, sir.
Q Where did you know his wife? A I got anquainted with her down here on panther Creek a while before she died.
Q You didn't know her before the w ar? A No, sir.
Q Was this man Charles prown and she living together at that time?
A Yes, sir.
Q Have any children? A Yes, sir
Q Do you know what their name were? A I know pretty n igh all th them.
Q What are their names? A Sam, Wash, Charley, Joe Louvina.
Q Were they keepin g house there? A Yes, sir, they was up there with him at that time.
Q With him and his wife? A Yes, sir
Q Did they keep house? A Yes, sir, kept house and had a farm there.
Q Had a farm? A Yes, sir, on Panther Creek
Q Well, do you know how long his wife has been dead?
A No, I don't.
Q Been dead a good while or short while? A Been a good while.
Q Several years? A Yes, sir.
Q You can't say how many? A No, sir, I would not like to say.

BY MR. DAVENPORT:

Q Now, those that fa family did he have the first ti me you saw him after the war? A T is family I am talking about now.
Q Now, how many children you say were born at the time you saw him when he was fixing to go to the dance?
A I didn't see anybody any of them was then born.
Q Did he have a family at that time? A I seen him I said.
Q Do you know wh ther he had a family at that time or not?
A Yes, sir.
Q Of what did his family consist? A I don't know.
Q Where was his family? A I don't know wherhe they was at that time.
Q At whose house was the dance going to be given?
A Over at Lynch's house.
Q Where? A Simon Lynch.
Q That was in the fall of '67? A Yes, sir.
Q You didn't know where he had been prior to that time?

A No, sir.
Q You lived near Park Hill before the war? A Yes, sir.
Q And he lived on t he [illegible] where Lees Creek runs into the Arkansas? A He lived above that.
Q He lived at the Jim Scott Mills in Arakansas when the war broke out? A I don't know about that.
Q Well, how long before the war was it since you saw this applicant?
A Several years.
Q Then you don't know where he was working before the war? A With Jim Brown.
Q How do you know? A Well when we come down here before the war he was plowing below there.
Q Didn't you answer me a while ago that it was several years before the war? A This was in slavery times.
Q Well, now how many years before the war was it you had seen t his applicant? A It had been several years.
Q So you don't know where he was living or to whom he belonged when the war broke out? A No, sir.

CHARLES BROWN, the Applicant, recalled:
BY COM'R NEEDLES:
Q Where was these children living now, Louvina an d Joseph?
A Louvina is here, Joseph is on Panther Creek.
Q Are they both living with you? A Yes, sir
Q Be th born and raised in the Cherokee Nation? A Yes, sir.

COM'R NEEDLES: Charles Brown applies for the enrollment of himself and his two children, Louvina, 20 years of age, and Joseph, 18. He cannot be identified upon any of the roll's of the Cherokee Nation the Wallace roll, and he and his children are identified upon the Wallace roll, according to the page and number of the rolls as indicated in the testimony. He avers that he was the sale of Jim Brown and makes satisfactory proof as to his residence consequently Charles Brown and his two children, Louvina and Joseph, will be listed for enrolment as Cherokee Freedmen upon a doubt ful card: He will be notified at his post office address of the deicision of the Commission.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission he correctly recorded the testimony and proceedings in this case, and that t he foregoin g is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 16th da6 of July, 1901.

Commissioner.

"R"

C T D 952.

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 18, 1902.

In the matter of the application of Charles Brown, for the enrollment of himself and children as Cherokee Freedmen.

Appearances:
Mellette & Smith, Vinita, I. T., for the applicants;
W. W. Hastings, and
James S. Davenport, for the Cherokee Nation.

JAMES A. SCOTT, being sworn and examined, testified as follows:

Examined by Mr. Davenport:

Q What is your name ? A James A. Scott.
Q Where do you live ? A I live here at Muskogee.
Q What is your age ? A 54 years.
Q Where were you living when the war broke out ?
A Elk Hill, Texada County, Missouri.
Q Living with your parents at that time ? A Yes sir with my mother.
Q Do you know a colored man who goes by the name of Charles Brown ?
A Yes sir.
Q How long have you known him ? A Mr. Davenport I can't recall when my father first bought him, just the year; but my father bought him as a slave. It was sometime in '27 or '35.
Q Do you know from whom your father got him ?
A Except from the family talk. I do not know of my own knowledge. I know that either Lewis or Jim Hilderbrand brought him there.
Q Was your father a citizen of the Cherokee Nation ? A No sir.
Q Your father, as I understand you, then, bought Charles sometime in the fifties ? A Yes sir.
Q About how long did he keep him ? A I don't know-- He was with us, he must have been with us some four or five years.
Q What became of him ? If your father made any disposition of him to whom did he dispose of him ? A My father sold him to my uncle Charles D. Scott, of Van Buren, Arkansas.
Q He was taken away from your father's home ? A Yes sir.
Q To Van Buren, Arkansas ? A Yes sir.
Q Was your uncle a citizen of the Cherokee Nation ? A No sir.
Q Where was he when the war broke out ? A I can't a swear that.
Q Do you know whether or not he was still the property of your uncle at that time ? A Not of my personal knowledge sir.
Q Do you know whether or not after the fifties up to the time he disposed of him Charles had ever been the slave of Judge Jim Brown ?
A No sir.
Q Do you know Judge Brown ? A No sir. I don't think my father bought him from Judge Brown. I think he got him from the Hilderbrands. I know they brought him there.
Q Your uncle to whom he was disposed of by your father lived in Arkansas ? A Yes sir, at Van Buren.
Q Up to the time of the war where did you say Charles was ?
A I don't know certainly, for I never saw him after my father sold him until I saw him at the establishment of the court here several years ago.
Q The establishment of which court do you mean Mr. Scott ?
A I never saw him until he came here at, I believe, the first term of this court in April, 1896, the court here at Muskogee.
Q You speak of the United States Court ? A Yes sir.
Q You kept him then as the party that had been with your father ?
A On yes, he came prior to the above to see me, and stayed at my house while he was here.

Q You didn't know where he had been living during the war and after the war ? A Not of my own knowledge.
Q Your father bought him sometime in the fifties ? A Yes sir.
Q And kept him; about how long before the war did he sell him ?
A I think he must have sold him in 1859 or 1860. He lived with him after he married this woman Sarah. She was the property of my father. And this boy Mose was born to them there on that place.
Q The first child by Sarah, he was born there on your father's place ? A Yes sir.
Q His name was what ? A Moses.
Q When your father sold Charles to your uncle did he sell all of them ? Did they all go ? A No, they stayed until 1862 when they were taken off by Phillips or Ritchie's men Mose wasn't taken, but his wife was. At the time the Federals made the raid through there, they were living, Sarah Jane and this child, on the north of the river, and on the Sunday morning the raid was made she was at my mother's house. She left there with the soldiers and left this child Moses over on the north side of the river.
Q At the breaking out of the civil war to whom did Sarah Jane and this child Moses belong ? A To my mother; my father was dead.
Q Your mother was not a citizen of the Cherokee Nation ?
A No sir.
Q Had no claims to citizenship in the Cherokee Nation ?
A No sir.
Q You were living on the home place in Missouri at the time ?
A Yes sir.
Q Sarah Jane was taken away during the war when these commands came through there ? A Yes sir.
Q When did Mose leave ? A While I believe this is all so, this is not of my own personal knowledge. Sometime in that summer.

Mr. Smith: Now don't tell it. A I was in the country there and very close to them, but I wasn't at home at the time.

Examined by Mr. Smith:

Q Mr. Scott, what you really know is that your father owned a man by the name of Charley Brown before the war ? A Yes sir.
Q You don't know of your own personal knowledge that that same man is the applicant in this case ? A Yes sir I do.
Q How do you know it ? A I know Charley Brown that was brought there, and I knew him when he was here. Besides, he told me of his application for citizenship.
Q But this application was made on the 29th day of June, 1901 at Nowata; were you there ? A No sir. Well, I still stick to it that I do know it. I can't get away from that belief.
Q Now you don't know it do you ? A Mr. Smith, I do know it from the fact that from what took place between us, and from what took place up there; and I heard of it.
Q You can't testify to hear-say. A To come right down to it I am satisfied that this is the same man.
Q What we want is facts. You can't swear positively that he is the same Charley Brown that you are talking about can you ?
A Right straight up and down, no.
Q Now you think it was about 1859 when your father sold the man you were talking to here to your father's brother at Van Buren, Arkansas
A I think it was in there somewhere. I aint going to be positive as to the year.
Q Well it was somewhere in the fifties ? A Yes sir. I know that. Here's what makes me think I may be wrong as to the

time he came there, the fact that Mose, when he left there, must have been about three or four years old.
Q It must have been somewhere in the fifties that your father parted with the man you talked to ? A Yes sir.
Q How far did your father's brother live from where you lived ?
A About one hundred miles.
Q Between the time your uncle bought this man and the beginning of the civil war did you see this man Charley Brown ? A No sir.
Q You don't know then, of your own personal knowledge where this man Charley Brown was at the time the civil war commenced ?
A No sir.
Q You don't know of your own personal knowledge whether he was sold again after he was sold to your uncle or not ? A I do not.

Examined by Mr. Davenport:

Q You do know that the Charley Brown that belonged to your father had a boy named Mose ? A Yes sir.
Q And that Mose was the property of your mother after the breaking out of the war ? A Yes sir.
Q Do you know whether Charley ever rejoined his wife after the war?
A Not of my personal knowledge.

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MRS. ANNA H. DODSON, being sworn and examined, testified as follows:

Examined by Mr. Davenport:

Q Where do you live Mrs. Dodson ? A I live here in Muskogee.
Q How old are you ? A Fifty eight years old.
Q Where were you living when the civil war broke out ?
A At Elk Hill, Missouri.
Q You are the sister of Mr. Jim Scott ? A Yes sir I am.
Q Do you know a colored man by the name of Charley that at one time belonged to your father ? A Yes sir.
Q Do you know about when your father bought him ?
A I wouldn't be positive, but I think in 1853.
Q Is there any circumstance that makes you think he was bought at a certain date ? A We bought him before I went away to school.
Q Did Charley have a wife ? A Yes sir.
Q What was her name ? A Sarah Jane.
Q Did your father sell him before the breaking out of the war ?
A Yes sir.
Q About when was he sold as near as you can remember ?
A In February, 1858.
Q Do you know whether or not Charley and his wife had any children
A Yes sir, two.
Q Do you remember their names ? A Moses and Abbie.
Q Were they sold at the same time Charley was sold ? A No sir.
Q Where were they when the war broke out ? A Living on my father's farm.
Q Do you know to whom Charley was sold ?
A To my uncle Charles Scott.
Q Where was he living ? A At Van Buren, Arkansas.
Q After your father sold Charley before the breaking out of the war, did you ever see Charley afterwards ? A Yes sir.
Q Where ? A At Van Buren, at my uncle's.

Q Had you visited there ? A I was living there.
Q Do you know whether or not your uncle owned Charley atx the breaking out of the war ? A No sir he did not. He sold him.
Q In what section of the country did he sell him ?
A He sold him to a Louisiana planter.
Q Do you remember his name ? A No sir.
Q Do you know whether or not he had been taken away from your uncle's home when the war broke out ? A Yes sir he had.
Q Have you seen Charley since the war ? A Yes sir.
Q Do you know whether he has ever married ?
A He said he had a family.

Mr. Smith: I object to what he said.

Examined by Mr. Smith:

Q Van Buren, Arkansas, is just across the river from the Cherokee Nation is it not Mrs. Dodson ? A I don't know. I know Van Buren is close to the line, but I don't know how far.
Q You don't know what became of Charley after your uncle sold him? You don't know what became of him finally ?
A He ran away from my uncle once, and he got him back, and when he sold him to this Louisiana planter he ran off again and came up into this country, and was around my father's house. I didn't see him, but they saw him and told me he was there.

---

The Commission: This testimony will be filed with the following doubtful Cherokee Freedman cases : D 952; D 964 and D 965.

---

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of the same as appears from my stenographic notes thereof.

E. C. Bagwell.

Subscribed and sworn to before me this February 26, 1902.

Commissioner.

Freed D 680

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17202, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Charles Brown, D 788;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly stremuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some cpecial and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

---

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

---

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter.
Notary Public.

Cher
Supp'l to Freed D 952

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T., April 11, 1903.

In the matter of the application of CHARLES BROWN, for the enrollment of himself and his children LOUVENIA GORHAM and JOSEPH BROWN, as Cherokee Freedmen:

LOUVENIA GORHAM, being first duly sworn, and examined, testified as follows:

Examined by the Commission:

Q What is your name ? A Gorham is my name now, Brown is the name my father gave in.
Q What is your first name ? A Louvenia.
Q How old are you ? A I am twenty four I think. twenty three or four, I don't remember.
Q You were twenty, two years ago, you must be twenty two now ?
A I don't know just exactly.
Q What is your father's name ? A Charley Brown.
Q Now you say you were married to Lawrence Gorham ? A Yes sir.
Q When were you married to him ? A In May, 1900.
Q Then you were married when your father made application for you ?
A Yes sir, but I was not there; I was on the river at that time.
Q Did your father know you were married at that time ?
A No sir, he did not.
Q Is your husband a citizen ? A No sir, he's not a citizen.
Q Have you a marriage certificate ? A Yes sir, but not with me
Q Have you got it at home ? A Yes sir.
Q Will you send it in to the Commission ? A Yes sir, I will send it or either bring it.
Q Have you been living with this husband since you married him ?
A Yes sir.
Q Have you and your husband been living in the Cherokee Nation all the time ? A No sir, not all the time, he's been working away, but of course I haven't been where he works.
Q You never made your home outside the Cherokee Nation ?
A No sir.
Q What does your husband do ? A Hotel porter and cooks.
Q Have you got a place in the Cherokee Nation ? A Yes sir.

---

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the foregoing is an accurate transcript of his stenographic notes thereof.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1903.

Samuel Foreman

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

JAC

In the matter of the application for the enrollment of Charles Brown et al., as Cherokee Freedmen, consolidating the applications of

Charles Brown et al.----------Cherokee Freedmen D 962
Washington Brown----------Cherokee Freedmen D 738
Charles Brown, Jr.----------Cherokee Freedmen D 964
John H. Brown----------Cherokee Freedmen D 965

D E C I S I O N

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Charles Brown, for himself and minor children, Louvina and Joseph Brown; by Washington Brown, for himself; by Charles Brown, Jr., for himself; and by John H. Brown, for himself.

The evidence shows that the applicant, Charles Brown, was born prior to the commencement of the rebellion and that he was not the slave of a Cherokee citizen nor a free colored person residing in the Cherokee Nation at the commencement of the rebellion.

The evidence further shows that all the other applicants herein have been born since the close of the rebellion and are the descendants of and claim right to enrollment through the said Charles Brown.

None of the names of said applicants are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Charles Brown, Louvena Brown, Joseph Brown, Washington Brown, Charles Brown, Jr., and John H. Brown, as Cherokee Freedmen, should be denied under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chairman.

Commissioner.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this MAR 5 1904

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
OCT 12 1901

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, Aug 26, 1901

Received of the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application of Alexander Brown (Walker) for enrollment as Cherokee Freedman.

Millie D. Smith

Cherokee Freedman #D958

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 10 1901
ACTING CHAIRMAN

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on

by delivering a true copy thereof on the

day of A. D. 1901.

Given under my hand this

day A. D. 1901.

Marshal for Cherokee Nation

---

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the

day of , 1901.

Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to

on the day of A. D. 1901

Subscribed and sworn to before me this day of A. D. 1901.

# NOTICE!

*IN THE MATTER OF* The application of Charles Brown for enrollment as a Cherokee Freedman:

Case No. F. D. 952

To Charles Brown or Millette & Smith attys

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Ft Gibson Indian Territory, on the following dates, to-wit: Sept 18 A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 7 1901 day of ~~1901~~.

L B Bell

*Attorneys for the Cherokee Nation.*

F.D. 932

F. D.

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the ..... day of ..... A. D. 190 .

Given under my hand this ..... day of ..... A. D. 190 .

.....
Marshal for the Cherokee Nation.

---

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the 26 day of Sept. 1901.

Mellette & Smith
Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the ..... day of ..... A. D. 190 .

.....

Subscribed and sworn to before me this .....

.....
Notary Public.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 26 1901

# NOTICE!

*IN THE MATTER OF* the application of Charles Brown for enrollment as Cherokee Freedmen:

Case No. F. D 952

To Charles Brown & or Mellette & Smith his Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct. 11th, 1901. at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Sept. 26th, 1901.

L B Bell

W. W. Hastings

J. L. Davenport

Attorneys for the Cherokee Nation.

10952

DEPARTMENT OF [illegible]
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
FEB 13 1902

F. D. 952

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the .....day of ..... A. D. 190....

Given under my hand this ..... day of ..... A. D. 190....

.....
Marshal for the Cherokee Nation.

---

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the .....day of ....., 190....

.....
Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the ..... day of ..... A. D. 190....

.....

Subscribed and sworn to before me this .....

.....
Notary Public.

# NOTICE!

*IN THE MATTER OF* the application of Charles Brown for enrollment as Cherokee Freedmen:

Case No. F. D 952

To Charles Brown or Mallette & Smith his attorneys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee, I. T. Indian Territory, on February 24th, 1902, at 8 o'clock A. M or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 8th day of February, 1902.

L B Bell

W. W. Hastings

Jas. L. Davenport

Attorneys for the Cherokee Nation.

COPY.

Cherokee F.D-952

Muskogee, Indian Territory, March 16, 1904.

Charles Brown,

Ruby, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 8, 1904, rejecting, among others, your application for the enrollment of yourself and your two minor children, Lourena and Joseph Brown, as Cherokee Freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been furnished to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. Breedlove,

Commissioner in Charge.

Register.

Enc. 8-1

COPY.

Cherokee Freedmen
D-852,D-738,D-854
& D-856.

Muskogee, Indian Territory, March 14, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Charles Brown, et al., rejecting the applications for the enrollment of Charles, Louvema, Joseph, Washington, Charles, Jr. and John H. Brown, as Cherokee Freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. Breckinridge

Enc. 66. Commissioner in Charge.

COPY.

Cherokee F.D-932,
D-755,D-954 & D956

Muskogee, Indian Territory, March 16, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Charles Brown, et al., including the Commission's decision, dated March 8, 1904, rejecting the applications for the enrollment of Charles, Louvena, Joseph, Washington, Charles, Jr. and John H. Brown, as Cherokee Freedmen.

Respectfully,

C. R. Breedlove.

Through the Commissioner in Charge.

Commissioner of Indian Affairs.

Enc. 6-7

D.C. 21706-1904.
I.T.D. 5104-1904.
LRS.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, June 23, 1904.

J.R.
FHE

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

March 16, 1904, you transmitted the record in the consolidated case embracing the applications of Charles Brown, et al (F.D-952, D-736, D-953 & D-965), for enrollment as Cherokee freedmen, including your decision of March 5, 1904, rejecting said applications.

Reporting in the matter June 18, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock.
Secretary.

1 inclosure.

DEPARTMENT OF THE INTERIOR,

Refer in reply to the following:
Land.
19261/1904.

OFFICE OF INDIAN AFFAIRS,

Washington, June 18, 1904.

(Copy)

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from the Commission to the Five Civilized Tribes, dated March 16, 1904, forwarding the record relative to the applications of Charles Brown, et al, for enrollment as Cherokee Freedmen. Charles Brown applied for the enrollment of himself and his minor children, Louvina and Joseph Brown. Washington Brown, Charles Brown, Jr., and John H. Brown each applied for the enrollment of himself.

The record shows that Charles Brown, principal applicant, was born prior to the commencement of the war and was in the early 50's a slave of a Cherokee citizen, but that he was sold before the commencement of the war to Charles D. Scott, brother of his Cherokee owner, who took him to Van Buren, Arkansas. The other applicants are descendants of Charles Brown and derive their rights, if any they have, through him. The mother of the other applicants was not a Cherokee freedman.

In view of the record, the approval of the Commission's decision of March 5, 1904, unfavorable to the applicants, is recommended.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

(GAF)-E

[redacted] Freedom
[redacted] 1904, et al.

Muskogee, Indian Territory, June 30, 1904.

Edgar Smith,
Attorney for Charles Brown, et al.,
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting, among others, the applications for the enrollment of Charles, Joseph, Charles, Jr., and John H. Brown and Louvena Gorham, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 25, 1904.

Respectfully,

Commissioner in Charge.

Cherokee freedmen
S 958, 57 cd.

Muskogee, Indian Territory, June 24, 1904.

W. W. Hastings,
Attorney for the Cherokee nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting the applications for the enrollment of Charles, Joseph, Charles, Jr., Washington, and John H. Brown, and Louvena Gorham, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D 982

Muskogee, Indian Territory, June 30, 1906.

Charles Brown,

Ruby, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 6, 1906, rejecting, among others, your application for the enrollment of yourself and your two children, Leavena Gorham and Joseph Brown, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 23, 1906.

Respectfully,

Commissioner in Charge.

COPY.

Cherokee Freedmen

R-400.

Muskogee, Indian Territory, March 18, 1905.

Charles Brown,

Ruby, Indian Territory.

Dear Sir:/

The Commission is in receipt, by reference from the Secretary of the Interior, of your letter of February 4, 1905, asking to be advised as to why your application for enrollment as a Cherokee freedman was denied.

In reply you are advised that your said application was rejected for the reasons set forth in the Commission's decision dated March 5, 1904, a copy of which was furnished you on March 16, 1904.

Respectfully,

(SIGNED) Tams Bixby.
Chairman.

Cherokee Freedmen
R 400

Muskogee, Indian Territory, May 28, 1906.

Charles Brown,
Ruby, Indian Territory.

Dear Sir:

You are hereby advised that the motion filed September 7, 1905, by your attorneys for review in your Cherokee freedmen enrollment case was dismissed by the Department May 2, 1906.

Respectfully,

Commissioner.

MMP

Cherokee Freedmen
R 400, et al.

Muskogee, Indian Territory, May 28, 1906

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the motions filed September 7, 1905, by attorneys for applicants in the Cherokee freedmen enrollment cases of Joseph Brown and others named in the Department's letter of May 2, 1906, a copy of which is enclosed herewith, were denied by the Department in said letter.

Respectfully,

LMB

Commissioner

Cherokee Freedmen
R 400 et al.

Muskogee, Indian Territory, May 2, 1906

Bliss & Bulger,

Attorneys for Joseph Brown, et al.

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motions filed September 7, 1905, by you, in the Cherokee Freedmen enrollment cases of Joseph Brown, and others named in the Department's letter of May 2, 1905, a copy of which is enclosed herewith, were dismissed by the Department in said letter.

Respectfully,

LMS

Commissioner

Encl. B-93

15

51 952

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 29 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date June 29, 1901

Post Office Ruby I.T.

District Coo

1. Name Charles Brown Age 79

Owner's name Ino Brown Citizenship Cherokee

Year Wallace Page 103 No. 2204 District Coo

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

2. Name of wife ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

Names of Children:

1. Lowrenia Brown Year Wallace Page 103 No. 2208 Dist. Coo 20
2. Joseph " " Year " Page 103 No. 2209 Dist. " 18
3. ..... Year " Page ..... No. ..... Dist. .....
4. ..... Year " Page ..... No. ..... Dist. .....
5. ..... Year ..... Page ..... No. ..... Dist. .....
6. ..... Year ..... Page ..... No. ..... Dist. .....
7. ..... Year ..... Page ..... No. ..... Dist. .....
8. ..... Year ..... Page ..... No. ..... Dist. .....
9. ..... Year ..... Page ..... No. ..... Dist. .....
10. ..... Year ..... Page ..... No. ..... Dist. .....
11. ..... Year ..... Page ..... No. ..... Dist. .....
12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by No 1 Stenographer J. A. Bates

2 Ad. C. roll as Luvina Brown

Represented by Mellott and Smith

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Charles Brown,
Ruby, I. T.
Cherokee F-D-952
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.




Department of the Interior.
Commission to the Five Civilized Tribes.
MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, $300.

Returned 10-7
Unclaimed
address unknown

~~Mr. Charles Brown~~

~~Ruby, Indian Territory.~~

527

R 65
59



Cher. Fr. R. 401

Cher. Fr. R. 401

See Cher. Fr. R. 400

To be filed with case of Charles Brown, Jr., C. F. D.#954.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
NOWATA, I.T., JUNE 29th, 1901.

In the matter of the application of Charles Brown for the enrollment of himself and two children as Cherokee Freedmen; said Brown being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Messrs. Mellette & Smith, for Applicants;
Messrs Hastings and Davenport, for Cherokee Nation.

Q What is your name? A Charles Brown.
Q How old are you? A 71.
Q What is your postoffice? A Ruby.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes,sir.
Q Who do you want to enroll besides yourself? A Couple of children.
Q What are their names A Louvina.
Q How old is she? A 20.
Q The name of the next child A Joseph.
Q How old is Joseph? A 18
Q Are you married? A No, sir, my wife is dead.
Q What is your wife's name? A Sarah Jane.
Q She is the mother of these children? A Yes, sir.
Q Have you the custody of these children now? A Yes, sir.
Q Living with you? A Yes, sir.
By Mr. Smith: Mr. Brown, what did you say your wife's name was? A Sarah Jane.
Q When did you marry her? A Oh, away before the war.
Q Where were you living at the time you married your wife?
A I was hiredout, down to Van Buren.
Q Who hiredyou out? A Old Judge Brown, my old owner; his right name is Jim Brown.
Q Well, were you a slave were you? A Yes, sir.
Q Was Jim Brown an Indian, a Cherokee Indian? A Yes, sir.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Where was he living at the time the war commenced?
A Living on Lees Creek.
Q Is that in the Cherokee Nation or not? A Yes, sir, in the Cherokee Nation.
Q How far is that from Van Buren? A About 16 miles.
Q Well, these children for whom you apply who is the mother of these children? A She was state raised woman she was.
Q The mother of those children? A Yes, sir.
Q When did you marry her? A She is the one I married.
~~Q I didn't ask you what she was, I asked you who was the mother of~~ Louvina and Joseph? A Sarah Jane.
Q Did you have children older than Louvina and Joseph? A Yes, sir, there were six more older.
Q Do they intend to apply before this Commission for enrollment?
A Yes, sir.
Q Well, you can give their names, if any of them are married give their full names as they now appear? A The oldest one is named Mose Brown.
Q The next one? A Abbie Worley now, she is married.
Q The next one? A John Brown.
Q Well? A Next one is Charley.
Q Well, A ~~Ik~~ And Sam and Wash; that is all of them.
Q Where does Charley live? A He lives up on Big Creek here.
Q In the Cherokee Nation? A Yes, sir.
Q Marriedor single? A He is married.
Q Where does Wash live? A Wash is living right over the river about three or four miles.

Q Three or four miles from Nowata? A Yes, sir.
Q Married or single? A He is married.
Q Where does John live? A John Lives on panther creek.
Q In the Cherokee Nation? A Yes, sir
Q Married or single? A Well, that was his woman that made application.
Q Separated from his wife? A Yes, sir.
Q Well, where does Abbie live? A She is in Vinita.
Q Married or single? A She is married.
Q What is her husband's name? A Worley,
Q What is his firstname? A I think is name is Charley Worley.
Q Well, now, the other two I haven't asked you about, where do they live? A Sam is out in Oklahoma.
Q How long has he been out there? A He has been out there five or six months.
Q Where did he live before he went there? A He lived here.
Q Well, the other one? A The? is the two, Louvina and Joe.
Q You have told where all of them live except Louvina and Joe?
A I told you where they live.
Q Have you give the names and residence of all of your children except Louvina and Joe? A Well, I have given them too, ain't I just tole you where they live.
Q Well, have you give the names of all and where they live outside of them? A Yes, sir.
Q Where is Louvina living? A Living with her brother Charley.
Q Where does Joe live? A He is living with Joe Riley's son, Will Riley.
Q Which is the oldest one of these children? A Moses.
Q How old is he? A He is about 41 or 2 years old.
Q Give me the names of those who were born before the war?
A Rose and Abbie were born before the war.
Q Where were the others born? A John was born during the war and the other was born since.
Q Well, you say you and your wife were married 40 years ago?
A Yes, over 40.
Q You lived together after the war? A Yes, sir.
Q Where did you and your wife live? A We lived in the Nation.
Q Where did she die? A She died down here on Panther Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Were you living together when each of these children you have named, when they were born? A Yes, sir, lived together until she died.
Q Well, you say you were a slave of Jik Brown? A Yes, sir.
Q Were you taken out of the Nation or did you go out of the Nation while the war was going on? A Yes, sir, I went up to Fort Scott.
Q What time did you come back to the Cherokee Nation after the war? A I come back in time of the war; I was working for the Government down here to Gibson all during the war.
Q Well, how long did you stay at Fort Scott? A I stayed there until the war ceased; I didn't stay there I stayed down here in the Nation, and I went back after my family after the war ceased.
Q Well, what time did you bring your family after the war ceased?
A I come the year or two before I brought my family.
Q When did you bring your family? A I think it was in 670 I brought them down.
Q Where did you live yourself during the war? A I was in Fort Gibson.
Q Where were you in '66? A I was here in the Territory.
Q At what place? A I was down to Gibson.
Q Were you there all the year or part of the year? A No, I was just there a little while; I had a brother down there and I went down there to see him.
Q Well, what time in the year was that? A '66.

Q What time of the year? A Along in the fall.
Q How long did you stay about Fort Gibson that time?
A I didn't stay but a short time.
Q Where did you go then? A I come on back up in the country.
Q Whereabouts? A I come on Big Creek.
Q In the Cherokee Nation? A Yes, sir.
Q How long did you stay up on Big Creek? A I stayed there a little while, didn't stay very long.
Q Then where did you go? A I went on back after my family.
Q Well, when did you come back with your family? A I went back that winter.
Q When was that? A Winter of '66.
Q How long did you stay when you went after your family?
A I stayed until the spring, '70, along there in '67.
Q Well, when you said you brought your family here in '70 a while ago, is that correct? A No, sir, I brought her along in '67.
Q Did you know what time of the year it was you brought your family A It was along in the sukmer.
Q What did your family consist of at that time, of yourself and children had been born? A Had three.
Q Where were the rest of them born? A They was born in the Nation
Q What Nation A Cherokee Nation.
Q How old was the oldest one of these ~~skik~~ three children you brought back at the time you speak of? A They must have been.
Q The oldest one? A The oldest one must have been five or six years old.
Q Where have you been living ever since that time?
A I have been right here in the Territory ever since.
Q Are you on any of the rolls? A I am on one, Wallace roll.

The 1880 Authenticated roll, the 1896census roll and Kern-Clifton Payroll of freedmen of the Cherokee Nation examined and names of applicants not found thereon.
The Wallace roll of Freedmen of the Cherokee Nation examined and names of applicants found thereon as follows:
Page 103, #3304, Charles Brown, Cooweescoowee district.
Page 103, #2208, Luvina Brown, Cooweescoowee district.
Page 103, #2209, Joseph Brown, Cooweescoowee District.

By Mr. Davenport: You belonged you say to Judge Jim Brown when the war broke out? A Yes, sir.
Q Where were you living at the time the war broke out?
A I was living right home.
Q At Home? A Yes, sir.
Q Did you know a man by the name of Jim Scott who lived in Arkansas before the war broke out? A yes, sir.
Q I will ask you if you were not working for him and was owned by him at the time the war broke out? A No, sir.
Q What children did Jim grown have? A He never had any children in his life.
Q What stepchildren did he have? A Had one.
Q What was her name? A Her name was Nancy.
Q Had Jim Brown a wife? A Yes, sir, Jim Brown had a wife.
Q Where was she living at the time the war b oke out?
A Living on Lees Creek.
Q Where was Nancy Living? A She was living about two or three miles from her mother's.
Q She is now Mrs. Nancy Seabolt? A I think so.
Q Have you seen her since the war? A No, I heard she was dead.
Q You have never went back to the old place after the war?
A No, sir.
Q How far did Jim Scott live from the Cherokee line?
A He lived right on the line.
Q He lived on the Arkansas side? A Yes, sir.

Q Now, you went to Fort Scott in what year? A I went to Fort Scott in 1861.
Q You were married at that time? A Yes, sir.
Q Did you have any children at the time you went fe Fort Scott?
A Woman had two.
Q Were they your children? A Yes, sir.
Q You went then to Fort Scott about what year? A I went up there in '61 after the war broke out.
Q How long had you been marriedbefore the war broke out?
A Four or five years, two or three years.
Q Well, now, when you came back from Fort Scott to what poind did you come? A After I went up in '61?
Q Yes. A I come down to Gibson, I come to Gibson driving a Government team.
Q You testified before the Kern-Clifton Commission? A Yes, sir.
Q Did you testify before that Commission anything about being in the Government service? A I think I did.
Q When was it you went to Snow Creek if at all? A I have been up to Snow Creek lots of times.
Q Well, then, immedaitely after the war, did you come to Snow Creek then? A I come through there.
Q Did you stop with anybody? A I come on down to Big Creek and stopped with Mose Smith.
Q When did you go to Pryor's Creek, on Pryor Creek, I didn't mean the Pryor Creek town? A I went down there some eight or ten years after I came back.
Q That is when you went down there where the Riley's and McNairs were living? A Yes, sir.
Q That was eight or ten years after you came back? A Yes, sir.
Q When was it you stayed all night with Dave French in this country?
A That was when I went up to Fort Scott, away along in '70.
Q That was when you brought your family down? A No, I had my family here.
Q Where was your family living when you stayed all night with Dave French? A My family was living down on Pryor's Creek.
Q Where was your family living when you went down to the Rileys and McNairs on Pryor's Creek? A The first time I went down there that was after I had been here I was living up at Bonseneck when I went down there.
Q Where was Dave French living when you stayed with him?
A Up where he is.
Q That was about '75? A Yes, sir, sometime along in there.
Q You had been back about five or six years when you stayed all night with Dave French? A Yes, sir.
Q All of your children were born in the Cherokee Nation?
A I didn't say that.
Q Which of them were born out? A One of them was born in Kansas.
Q Now, which is it? A One.
Q Which one was that that was born in Kansas? A John, John was born in '65, 12th of February, '65.
Q You were then living in Kansas? A Yes, sir.
Q Who lived near Jim Brown or x there when you were living with him?
A My God I could not tell you.
Q Do you remember any of their names? A There was full blood Indians, there was a number of Indians lived around there.
Q Do you remember any of their names? A Ewnideep, Young Fawn and Jim Brown was living with his uncle.
Q You have never gone down there to see your young master or your old Mistress to testify for you? A No, sir, I would not give anything for an Indian to testify for me.
Q You would not let one testify for you? A No, sir, unless I was acquainted with him.
Q You were well acquainted with Nancy Bo ebolt? A Yes, sir, we was children together.

Q You would not let her testify? A No, sir, I would be afraid you would be going around and t alking to her.
Q How long did you go by the name of Will Thomas? A I never did go by the name of Will Thomas.
Q Did you ever go by the name of Bill Thomas? A No, sir.
Q Did you ever go by any other name other than Charley Brown? A Yes, sir.
Q What name did you go by? A Bill Thompson.
Q Where were you living when you went by the name of Bill Thompson? A I was living up there.
Q What country? A Fort Scott.
Q How lonf did you go by the name, that and of Bill Thompson at Fort Scott, Kansas? A I went by the name, that and I go by the name of it yet, lots of them calls me Bill Thompson.
Q How long did you go up there by the name of Bill Thompson? A As long as I stayed there.
Q How long did you stay there? A Until I come back.
Q How lonf as it until you come back? A Along in the fall of '61.
Q Q When did you go there? A In '61.
Q And come back in '61? A Yes, sir.
Q How did it happen that you went by the name of Bill Thompson? A They give me the nickname.
Q Who nicknamed you? A I don't know who it was, but I was down here to Gibson and they give me another name down there.
Q Did you have the name of Bill Thompson when you were working for Bill Scott in Arkansas? A No, sir.
Q What name did you go by there? A Charley Brown.
Q What name did they give you at Fort Gibson? A Charley Brown.
Q That wasn't a nicjkmame? A Charley Brown is my right name.
Q You have just gone by the two names? A Yes, sir, and sometimes they call me Brock.
Q How did they happen to call you Brock? A They just got to devilling me.
Q How lonf did you stay about Gibson? A I stayed there until '65.
Q Near whom were you living? A I was in the Gofvernment service, scouting.
Q How long were you a scout for the Government? A About four months.
Q Who lived at Fort Gibson at that time? A Everybody of the soldiers.
Q What were you doing there? A I was going around with the soldiers, driving a government train, I drive three years and six months and I quit that and went with Pole Childers in the scouting gang.
Q Was Conig Vann living there at that time? A I don't think he was.
Q Was Jim Vann living there then? A I don't know.
Q Was F. H. Nash? A Yes, Nash was there I recollect him.
Q Was Aunt Ann Brown living there then? A Yes, sir.
Q What part of town did she live? A I think she lived back of Persel's store.
Q What time did Jim Scott come there? A He never did come there; Jim Scott was dead then.
Q Where did he die? A He died before the war they said; said he died in '59.

L. D. DANIELS, being sworn by Commissioner T. B. Needles, testifies as follows: BY MR. SMITH:
Q State your name. A L. D. Daniels.
Q Where do you live? A Claremore.
Q How long have you lived in the Cherokee Nation? A All my life.
Q How old are you? A 56.
Q Do you know this applicant, Charles Brown, here A Yes, sir.
Q How long have you known him? A I have been known him, I got acquainted with him at Fort Scott in '65.

Q You didn't know him before the war? A No, sir.
Q Do you know where he was in 1865? A Yes, sir, I do.
Q Where? A I believe it was in December or just after Christmas I met him and his uncle in Fort Gibson.
Q Just after Christmas? A Yes, sir, in '66.
Q How long after Christmas? A It wasn't long, three or four days or such a matter.
Q Was that or was it not the first time you had seen him at Fort Scott in '63? A Yes, sir, about the first time I seen him after that I seen him about once before that, I seen him in '63 in Fort Scott and I seen him in Christmas '64 and the third time was in Fort Gibson.
Q Well was the third time you are speaking of now? A Yes, sir.
Q How many times did you see him there? A Two or three times with Steve, I will call his name; I think he was his uncle; I said some relation, I don't know whether it was his uncle, brother or who it was.
Q How long did you stay at Fort Gibson after Christmas, '66?
A I stayed there all the time until '75, until the 5th day of July, '67.
Q Do you know where Charles Brown lives now? A Yes, sir, he has been living close to Chelsea before that he lived up there in five miles of me.
Q How long since he left the place five miles from you?
A Five or six years.
Q Well, about when was it you saw him next after you saw him down there at Fort Gibson? A It was up to, I met him up here at Goose Neck.
Q When? A I am just thinking how long it has been, I don't know when just exactly, it has been 12 or 13 years, maybe a little longer or not so long.
Q You don't know who he belonged to? A No, sir, I don't of my own knowledge.

BY MR. DAVENPORT: You think it was sometime after Christmas and it was in '66? A I know it.
Q Well, you lived there from '65 up until about '70?
A I lived there until the 5th of July.

BY COM'R NEEDLES:

Q Of what year? A '67.

BY MR. DAVENPORT: It was sometime after Christmas from the time you went there until you left? A Yes, sir.
Q You don't know how long he stayed there? A No, sir.
Q You don't know where he went after you left there? A No, sir.
Q And don't know to whom he belonged before the war?
A No, sir, only what I heard.

MOSE HARDRICK, being duly sworn by Commissioner T. B. Needles, testified as follows: By Mr. Smith:

Q State your name? A Mose Hardrick.
Q How old are you, Mr. Hardrick? A 71.
Q How long have you lived in the Cherokee Nation?
A Pretty nigh all my life.
Q Do you know this man, Charles Brown? A Yes, sir.
Q How long have you known him? A Well, I knowed him pretty nigh all through slavery.
Q Do you know who he belonged to? A Yes, sir, Jim Brown.
Q Was Jim Brown an Indian, Cherokee Indian? A Yes, sir.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q How far did you live from his owner, Jim Brown, during the war?
A I spect it was about between forty and fifty miles.
Q Where did you get acquainted with this man? A Down on Lees Creek, here in the Cherokee Nation.
Q Was that where his owner lived? A Yes, sir.

Q Where did you live? A I lived at Park Hill and I had to go there in the fall to get stone coal.
Q Did you go out of the Nation during the war yourself? A Yes,sir
Q When did you get back A I got back in the spring of '66.
Q When did you see Brown first in the Cherokee Nation after the war, this applicant? A I guess it must have been about '67 I first seen him, it was in cold weather.
Q You got back in the spring of '66, where were you in the time of Christmas after you state you got back? A On the place I made there.
Q Do you know how long it was after Christmas you saw this man?
A I don't know.
Q What time did you think it was in '67 when you saw him?
A I think it was as well as I can recollect about December.
Q Of '67? A Yes, sir.
Q Where was he when you saw him? A He was over on Grand river.
Q You don't know how long he had been back in the Cherokee Nation at that time? A No, sir.
Q What was he doing over on Grand river? A He was fixing to go to a dance.
Q After that did you see him any more? A Yes, sir.
Q When did you next see him after that? A I guess it must have been a year or two years if my mind serves me right.
Q Then wh re did you see him? A Seen him on Panther Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Do you know where he is living now? A He is living with his son Charley.
Q In what part of the nieghoborhood or what part of the country?
A On Big Creek.
Q Do you know how long he has been living there? A No, sir, but he has been living with Charley pretty nigh ever since his wife died.
Q Do you know his wife? A Yes, sir.
Q Where did you know his wife? A I got acquainted with her down here on Panther Creek a while before she died.
Q You didn't know her before the war? A No, sir.
Q Was this man Charles Brown and she living together at that time?
A Yes, sir
Q Have any children? A Yes, sir
Q Do you know what their names were? A I know pretty nigh all them.
Q What are their names? A Sam, Wash, Charley, Joe Louvina.
Q Were they keeping house there? A Yes, sir, they was up there with him at that time.
Q With him and his wife? A Yes, sir.
Q Did they keep house? A Yes, sir, kept house and had a farm there.
Q Had a farm? A Yes, sir, on Panther Creek.
Q Well, do you know how long his wife has been dead? A No, I dont
Q Been dead a good while or short while? A Been a good while.
Q Several years? A Yes, sir.
Q You can't say how many? A No, sir, I would not like to say.
Mr. Davenport; Now, Mose, what family did he have the first time you saw him after the war? A This family I am talking about now.
Q Now, how many children you say were born at the time you saw him when he was fixing to go the dance? I didn't say any of them was then born.
Q Did he have a family at that time? A I seen him I said.
Q Do you know whether he had a family at that time or not?
A Yes, sir.
Q Of what did his family consist? A I don't know.
Q Where was his family? A I don't know where they was at that time.
Q At whose house was the dance going to be given? A Over at Lynch's house.
Q Where? A Simon Lynch.

Q That was in the fall of '67? A Yes, sir.
Q You don't know where he had been prior to that time?
A No, sir.
Q You lived near Park Hill before the war? A Yes, sir.
Q And he lived on the Arkansas line where Lees Creek runs into the Arkansas? A He lived above that.
Q He lived at the Jim Scott Mills in Arkansas when the war broke out? A I don't know about that.
Q Well, how long before the war was it since you saw this applicant?
A Several years.
Q Then you don't know where he was working before the war?
A With Jim Brown.
Q How do you know? A Well when we come down here before the war he was plowing below there.
Q Didn't you answer me a while ago that it was several years before the war? A This was in slavery times.
Q Well, now, how many years before the war was it you had seen this applicant? A It had been several years.
Q So you don't know where he was living or to whom he belonged when the war broke out? A No, sir.

CHARLES BROWN? the applicant, recalled: By Com'r Needles:
Q Where was these children living now, Louvina and Joseph?
A Louvina is here, Joseph is on Panther Creek.
Q Are they both living with you? A Yes, sir.
Q Both born and raised in the Cherokee Nation? A Yes, sir.

COM'R NEEDLES: Charles Brown applies for the enrollment of himself and his two children, Louvina, 20 years of age, and Joseph, 18. He cannot be identified upon any of the rolls of the Cherokee Nation except the Wallace roll, and he and his children are identified upon the Wallace roll, according to the page and number of the rolls as indicated in the testimony. He avers that he was the slave of Jim Brown and makes satisfactory proof as to his residence consequently Charles Brown and his two children, Louvina and Joseph, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. He will be notified at his post office address of the decision of the Commission.

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J. O. Rosson, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this September 4th, 1901.

M D Green
Com'r

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., JUNE 29th, 1905.

In the matter of the application of Charley Brown, Jr., for enrollment as a Cherokee Freedman; said Brown being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Messrs. Mellette & Smith, for Applicant.
Mr. J. S. Davenport, for Cherokee Nation.

Q What is your name? A Charley Brown.
Q How old are you? A I am about 31 or 32.
Q What is your post office? A Ruby.
Q What district do you live in? A Coowescoowee.
Q Do you apply to be enrolled as a Cherokee freedman?
A Yes, sir.
Q Who do you want to enroll besides yourself? A Just myself.
Q Are you married? A Yes, sir.
Q Is she a citizen? A Yes, sir.
Q She has been enrolled by herself? A Yes, sir.
Q What is your father's name? A Charley Brown.
Q What was your mother's name? A Sarah Jane.
Q Is she living? A No, sir, she is dead.
Q Is the Charley Brown who was just enrolled here a while ago, Senior, your father? A Yes, sir.
Q Where were you born? A I don't know exactly where.
Q Where do you think you were? A Coowescoowee Bend when I first recollect myself.
Q Have you live d there all your life A No, sir; moved from t here went down on Pryors Creek.
Q Have you lived in the Cherokee Nation all your life?
A Yes, sir.
Q Are you married? A Yes, sir.
Q Father of how many children? A Five.
Q They have already been enrolled with their mother?
A Yes, sir.

BY MR. DAVENPORT:

Q You don't know where you were born? A Born in the Cherokee Nation.
Q Been living here ever since? A Yes, sir.

BY COM'R NEEDLES:

Q Is your name on what rolls? A Wallace roll.

The 1880 Authenticated roll, the 1896 census roll, and Kern-Clifton pay roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 103, #2905, Charles Brown, Jr., Coowescoowee District.

COM'R NEEDLES: Charles Brown, Jr., applies for the enrollment of himself. He is not identified upon any rolls of the Cherokee Nation except the Wallace roll upon which he is duly identified according to the page and number of the roll as indicated in the testimony. He swears that he is the child of Charles Brown, Sr., who is duly listed for enrollment upon doubtful card #958. The testimony in the application of said Charles Brown, Jr., will be made part of the record in the case at bar and a copy thereof filed herewith. Applicant has made satisfactory proof as to residence and will be listed for enrollment as a Cherokee freedman upon a doubtful card. He will be notified by mail of the decision of the Commission when received.

Charley Brown, jr., --R.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this 17th day of July, 1901.

Commissioner.

C F D 954

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 18, 1902.

In the matter of the application of Charles Brown, for the enrollment of himself and children as Cherokee Freedmen:

Appearances:
Mellette & Smith, Vinita, I. T., for the applicants;
W W Hastings, and
James S. Davenport, for the Cherokee Nation.

JAMES A. SCOTT, being sworn and examined, testified as follows:

Examined by Mr. Davenport:

Q What is your name ? A James A. Scott.
Q Where do you live ? A I live here at Muskogee.
Q What is your age ? A 54 years.
Q Where were you living when the war broke out ?
A Elk Hill, Nevada County, Missouri.
Q Living with your parents at that time ? A Yes sir with my mother.
Q Do you know a colored man who goes by the name of Charles Brown ?
A Yes sir.
Q How long have you known him ? A Mr. Davenport I can't recall when my father first bought him; just the year; but my father bought him as a slave. It was sometime in '37 or '36.
Q Do you know from whom your father got him ?
A Except from the family talk. I do not know of my own knowledge. I know that either Lewis or Jim Hilderbrand brought him there.
Q Was your father a citizen of the Cherokee Nation ? A No sir.
Q Your father, as I understand you, then, bought Charles sometime in the fifties ? A Yes sir.
Q About how long did he keep him ? A I don't know-- He was with us, he must have been with us some four or five years.
Q What became of him ? If your father made any disposition of him to whom did he dispose of him ? A My father sold him to my uncle Charles D. Scott, of Van Buren, Arkansas.
Q He was taken away from your father's home ? A Yes sir.
Q To Van Buren, Arkansas ? A Yes sir.
Q Was your uncle a citizen of the Cherokee Nation ? A No sir.
Q Where was he when the war broke out ? A I can't x swear that.
Q Do you know whether or not he was still the property of your uncle at that time ? A Not of my personal knowledge sir.
Q Do you know whether or not after the fifties up to the time he disposed of him Charles had ever been the slave of Judge Jim Brown ?
A No sir.
Q Do you know Judge Brown ? A No sir. I don't think my father bought him from Judge Brown. I think he got him from the Hilderbrands. I know they brought him there.
Q Your uncle to whom he was disposed of by your father lived in Arkansas ? A Yes sir, at Van Buren.
Q Up to the breaking out of the war where did you say Charles was ?
A I don't know certainly, for I never saw him after my father sold him until I saw him at the establishment of the court here several years ago.
Q The establishment of which court do you mean Mr. Scott ?
A I never saw him until he came here at, I believe, the first term of this court in April, 1889, the court here at Muskogee.
Q You speak of the United States court ? A Yes sir.
Q You knew him then as the party that had been with your father ?
A Oh yes, he came over to the store to see me, and stayed at my house while he was here.

Q You didn't know where he had been living during the war and after the war ? A Not of my own knowledge.
Q Your father bought him sometime in the fifties ? A Yes sir.
Q And kept him; about how long before the war did he sell him ?
A I think he must have sold him in 1859 or 1860. He lived with him after he married this woman Sarah. She was the property of my father. And this boy Mose was born to them there on that place.
Q The first child by Sarah, he was born there on your father's place ? A Yes sir.
Q His name was what ? A Moses.
Q When your father sold Charles to your uncle did he sell all of them ? Did they all go ? A No, they stayed until 1862 when they were taken off by Phillips or Ritchie's men Mose wasn't taken, but his wife was. At the time the Federals made the raid through there, they were living, Sarah Jane and this child, on the north of the river, and on the Sunday morning the raid was made she was at my mother's house. She left there with the soldiers and left this child Moses over on the north side of the river.
Q At the breaking out of the civil war to whom did Sarah Jane and this child Moses belong ? A To my mother; my father was dead.
Q Your mother was not a citizen of the Cherokee Nation ?
A No sir.
Q Had no claims to citizenship in the Cherokee Nation ?
A No sir.
Q You were living on the home place in Missouri at the time ?
A Yes sir.
Q Sarah Jane was taken away during the war when these commands came through there ? A Yes sir.
Q When did Mose leave ? A While I believe this is all so, this is not of my own personal knowledge. Sometime in that summer.

Mr. Smith: Now don't tell it. A I was in the country there and very close to them, but I wasn't at home at the time.

Examined by Mr. Smith:

Q Mr. Scott, what you really know is that your father owned a man by the name of Charley Brown before the war ? A Yes sir.
Q You don't know of your own personal knowledge that that same man is the applicant in this case ? A Yes sir I do.
Q How do you know it ? A I knew Charley Brown that was brought there, and I knew him when he was here. Besides, he told me of his application for citizenship.
Q But this application was made on the 29th day of June, 1901 at Nowata; were you there ? A No sir. Well, I still stick to it that I do know it. I can't get away from that belief.
Q Now you don't know it do you ? A Mr. Smith, I do know it from the fact that from what took place between us, and from what took place up there, and I heard of it.
Q You can't testify to hear-say. A To come right down to it I am satisfied that this is the same man.
Q What we want is facts. You can't swear positively that he is the same Charley Brown that you are talking about can you ?
A Right straight up and down, no.
Q Now you think it was about 1859 when your father sold the man you were talking to here to your father's brother at Van Buren, Arkansas
A I think it was in there somewhere. I aint going to be positive as to the year.
Q Well it was somewhere in the fifties ? A Yes sir. I know that. Here's what makes me think I may be wrong as to the

time he came there, the fact that Mose, when he left there, must have been about three or four years old.
Q It must have been somewhere in the fifties that your father parted with the man you talked to ? A Yes sir.
Q How far did your father's brother live from where you lived ?
A About one hundred miles.
Q Between the time your uncle bought this man and the beginning of the civil war did you see this man Charley Brown ? A No sir.
Q You don't know then, of your own personal knowledge where this man Charley Brown was at the time the civil war commenced ?
A No sir.
Q You don't know of your own personal knowledge whether he was sold again after he was sold to your uncle or not ? A I do not.

Examined by Mr. Davenport:

Q You do know that the Charley Brown that belonged to your father had a boy named Mose ? A Yes sir.
Q And that Mose was the property of your mother after the breaking out of the war ? A Yes sir.
Q Do you know whether Charley ever rejoined his wife after the war?
A Not of my personal knowledge.

---

MRS. ANNA H. DODSON, being sworn and examined, testified as follows:

Examined by Mr. Davenport:

Q Where do you live Mrs. Dodson ? A I live here in Muskogee.
Q How old are you ? A Fifty eight years old.
Q Where were you living when the civil war broke out ?
A At Elk Hill, Missouri.
Q You are the sister of Mr. Jim Scott ? A Yes sir I am.
Q Do you know a colored man by the name of Charley that at one time belonged to your father ? A Yes sir.
Q Do you know about when your father bought him ?
A I wouldn't be positive, but I think in 1853.
Q Is there any circumstance that makes you think he was bought at a certain date ? A We bought him before I went away to school.
Q Did Charley have a wife ? A Yessir
Q What was her name ? A Sarah Jane.
Q Did your father sell him before the breaking out of the war ?
A Yes sir.
Q About when was he sold as near as you can remember ?
A In February, 1858.
Q Do you know whether or not Charley and his wife had any children
A Yes sir, two.
Q Do you remember their names ? A Moses and Abbie.
Q Were they sold at the same time Charley was sold ? A No sir.
Q Where were they when the war broke out ? A Living on my father's farm.
Q Do you know to whom Charley was sold ?
A To my uncle Charles Scott.
Q Where was he living ? A At Van Buren, Arkansas.
Q After your father sold Charley before the breaking out of the war, did you ever see Charley afterwards ? A Yes sir.
Q Where ? A At Van Buren, at my uncle's.

Q Had you visited there ? A I was living there.
Q Do you know whether or not your uncle named Charley at the breaking out of the war ? A No sir he did not. He sold him.
Q In what section of the country did he sell him ?
A He sold him to a Louisiana planter.
Q Do you remember his name ? A No sir.
Q Do you know whether or not he had been taken away from your uncle's home when the war broke out ? A Yes sir he had.
Q Have you seen Charley since the war ? A Yes sir.
Q Do you know whether he has ever married ?
A He said he had a family,

Mr. Smith: I object to what he said.

Examined by Mr. Smith:

Q Van Buren, Arkansas, is just across the river from the Cherokee Nation is it not Mrs. Dodson ? A I don't know. I know Van Buren is close to the line, but I don't know how far.
Q You don't know what became of Charley after your uncle sold him? You don't know what became of him finally ?
A He ran away from my uncle once, and he got him back, and when he sold him to this Louisiana planter he ran off again and came up into this country, and was around my father's house, I didn't see him, but they saw him and told me he was there.

---

The Commission: This testimony will be filed with the following doubtful Cherokee Freedman cases :- D 952, D 964 and D 965.

---

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of the same as appears from my stenographic notes thereof.

E C Bagwell

Subscribed and sworn to before me this February 25, 1902.

Commissioner.

F00164

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

AUG 1 1902

ACTING CHAIRMAN

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Charles Brown, Jr., D 954;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the rights of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Conclusion:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed thirty days to file any of the proof of any or all of the record other than the decree already referred to.

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly stremuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

---

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

---

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Charles Brown et al., as Cherokee Freedmen, consolidating the applications of

Charles Brown et al.- - - - -Cherokee Freedmen D 952
Washington Brown - - - - - - Cherokee Freedmen D 738
Charles Brown Jr. - - - - - - -Cherokee Freedmen D 954
John H. Brown - - - - - - - -Cherokee Freedmen D 965

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Charles Brown, for himself and minor children, Louvina and Joseph Brown; by Washington Brown, for himself; by Charles Brown, Jr., for himself; and by John H. Brown, for himself.

The evidence shows that the applicant, Charles Brown, was born prior to the commencement of the rebellion and that he was not the slave of a Cherokee citizen nor a free colored person residing in the Cherokee Nation at the commencement of the rebellion.

The evidence further shows that all the other applicants herein have been born since the close of the rebellion and are the descendants of and claim right to enrollment through the said Charles Brown.

None of the names of said applicants are found on the 1880 authenticated roll of the Cherokee Nation.

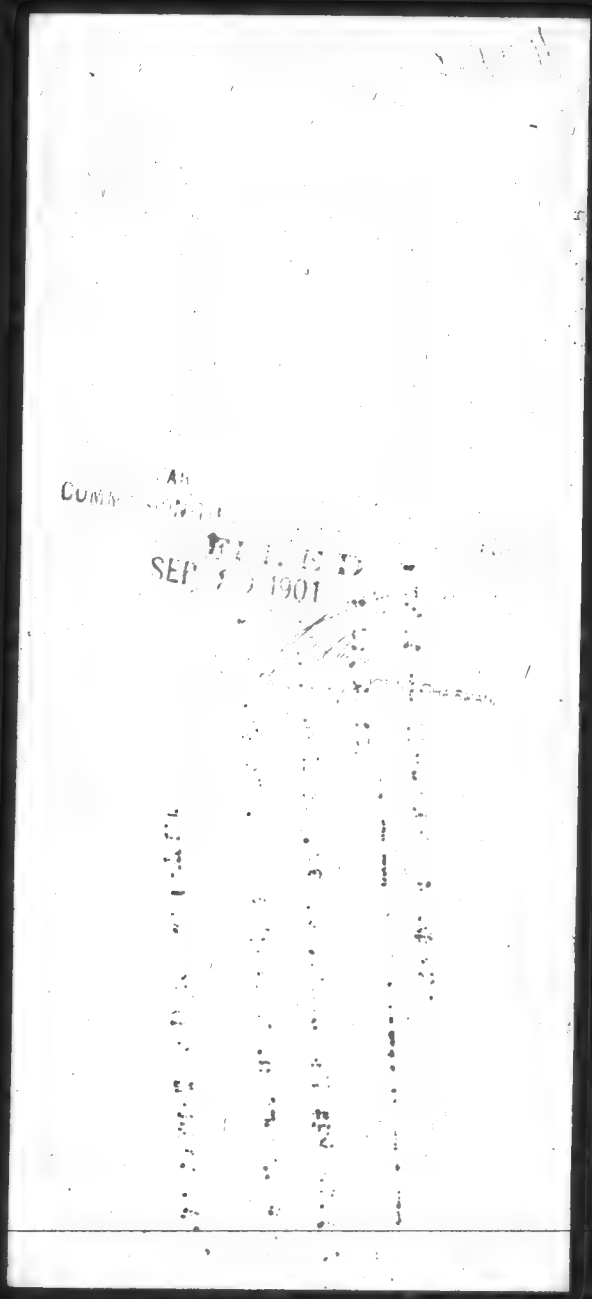
It is, therefore, the opinion of this Commission that the applications for the enrollment of Charles Brown, Louvena Brown, Joseph Brown, Washington Brown, Charles Brown, Jr., and John H.Brown, as Cherokee Freedmen, should be denied under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby,Chairman.
" T.B.Needles,Commissioner.
" C.R.Breckinridge, Commissioner.
" W.W.Stanley,Commissioner.

Muskogee, Indian Territory,

this Mar 5,1904.



COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, Aug 26, 1901

Received of the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application of Johnston Brown Jr for enrollment as Cherokee Freedman.

Mellette & Arnold
Attys for applicant

Cherokee Freedman #10954

F. D. 2954

F. D. .....

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the

..... day of ..... A. D. 190

Given under my hand this .....

day of ..... A. D. 190

.....

Marshal for the Cherokee Nation.

---

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the 26 day of Septy, 1901.

Mellette & Smith

Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the day of ..... A. D. 190

.....

Subscribed and sworn to before me this .....

.....

Notary Public.

---

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 26 1901

ACTING CHAIRMAN

# NOTICE!

*IN THE MATTER OF* the application of Charles Brown Jr
for enrollment as Cherokee Freedmen:
Case No. F. D. 954
To Charles Brown or Mellette & Smith his Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct. 11th, 1901. at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this [redacted] SEP 26 1901

L B Bell

W. W. Hastings

J. S. Davenport

Attorneys for the Cherokee Nation.

Cherokee F.D-954.

Muskogee, Indian Territory, March 16, 1904.

Charles Brown, Jr.,

Ruby, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting, among others, your application for the enrollment of yourself as a Cherokee Freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Register. Commissioner in Charge.

Enc. C-3.

COPY.

Cherokee F.D-952,
D-954, D-966.

Muskogee, Indian Territory, March 16, 1904.

Edgar Smith,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting, among others, the applications for the enrollment of Charles, Louvena, Joseph, Charles, Jr. and John H. Brown, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Register. Commissioner in Charge.

Enc. C-5

COPY

Cherokee Freedman
D-952,D-738,D-954
& D-965.

Muskogee, Indian Territory, March 16, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Charles Brown, et al., rejecting the applications for the enrollment of Charles, Louvena, Joseph, Washington, Charles, Jr. and John H. Brown, as Cherokee Freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Enc. 66.

Commissioner in Charge.

Cherokee F.D-932,
D-736,D-954 & D955

Muskogee, Indian Territory, March 16, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Charles Brown, et al., including the Commission's decision, dated March 5, 1904, rejecting the applications for the enrollment of Charles, Louvena, Joseph, Washington, Charles, Jr. and John H. Brown, as Cherokee Freedmen.

Respectfully,

Through the Commissioner in Charge.

Commissioner of Indian Affairs.

Enc. C-7

DEPARTMENT OF THE INTERIOR,

Refer in reply to the following:
Land,
19221/1904.

OFFICE OF INDIAN AFFAIRS,

Washington, June 18, 1904.

(Copy)

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from the Commission to the Five Civilized Tribes, dated March 16, 1904, forwarding the record relative to the applications of Charles Brown, et al, for enrollment as Cherokee Freedmen. Charles Brown applied for the enrollment of himself and his minor children, Louvina and Joseph Brown. Washington Brown, Charles Brown, Jr., and John H. Brown each applied for the enrollment of himself.

The record shows that Charles Brown, principal applicant, was born prior to the commencement of the war and was in the early 50's a slave of a Cherokee citizen, but that he was sold before the commencement of the war to Charles D. Scott, brother of his Cherokee owner, who took him to Van Buren, Arkansas. The other applicants are descendants of Charles Brown and derive their rights, if any they have, through him. The mother of the other applicants was not a Cherokee freedman.

In view of the record, the approval of the Commission's decision of March 8, 1904, unfavorable to the applicants, is recommended.

Very respectfully,

A. C. Tonner,

(S.M.)-K

Acting Commissioner.

D.C. 21704-1904.
I.T.D. 5104-1904.
LRS.

DEPARTMENT OF THE INTERIOR,
WASHINGTON. June 23, 1904.

J.P.
FHE

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

March 16, 1904, you transmitted the record in the consolidated case embracing the applications of Charles Brown, et al (I.D-952, D-732, D-953 & D-965), for enrollment as Cherokee freedmen, including your decision of March 5, 1904, rejecting said applications.

Reporting in the matter June 18, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock.

Secretary.

1 inclosure.

Cherokee Freedmen
D 754

Muskogee, Indian Territory, June 30, 1904.

Charles Brown, Jr.,

Ruby, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting, among others, your application for the enrollment of yourself as a Cherokee freedman, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

Cherokee freedmen
R 552, et al.

Muskogee, Indian Territory, June 20, 1904.

W. W. Hastings,
Attorney for the Cherokee nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting the applications for the enrollment of Charles, Joseph, Charles, Jr., Washington, and John H. Brown, and Lowrena Durham, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 13, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 952, et al.

Muskogee, Indian Territory, June 30, 1904.

Edgar Smith,
Attorney for Charles Brown, et al.,
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting, among others, the applications for the enrollment of Charles, Joseph, Charles, Jr., and John H. Brown and Louvena Gorham, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, May 20, 1906.

Kline & Bulger,

Attorneys for Elias A. Arnold, et al.,

Vinita, Indian Territory.

Dear Sirs-

You are advised that this office is in receipt of Departmental letter of May 2, 1906, a copy of which is enclosed herewith, denying motions filed by you September 7, 1905 for review in the Cherokee Freedmen enrollment cases of Elias A. Arnold and others named in said letter.

Respectfully,

Commissioner.

WMP

Muskogee, Indian Territory, May 29, 1906.

Bell, Hastings & Davenport,

Attorneys for Cherokee Nation,

Vinita, Indian Territory.

Gentlemen:-

You are advised that this office is in receipt of Departmental letter of May 2, 1906, a copy of which is enclosed herewith, denying motions by Blue & Bulger, filed September 7, 1905, for review in the Cherokee Freedmen enrollment cases of Eliza A. Arnold and others named in said letter.

Respectfully,

Commissioner.

LMC

Cherokee Freedmen
R-401

Muskogee, Indian Territory, May 28, 1906.

Charles Brown, Jr.,

Ruby, Indian Territory.

Dear Sir:-

You are hereby advised that the motion filed by your attorneys September 7, 1905, for a review in your Cherokee freedman enrollment case, was dismissed by the Department May 2, 1906.

Respectfully,

Commissioner.

LC

D

3154

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 29 1901

ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date June 29, 1904

Post Office Ruby, I. T.

District 2 Coo

1. Name Charles Brown Jr. Age 32

Owner's name C. Citizenship

Year Wallace Page 103 No. 2705 District Coo

Parents:

Father Chas. Brown Sr. Citizenship

Mother Sarah J. " dec. Citizenship

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Year Page No. Dist.

4. Year Page No. Dist.

5. Year Page No. Dist.

6. Year Page No. Dist.

7. Year Page No. Dist.

8. Year Page No. Dist.

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by Mo. T. Stenographer J. A. Rosson

Dismissed

Ref. 10-902

Represented by Mellette and Smith

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mr. Charles Brown, Jr.,
Ruby, I.T.
Cherokee F-D-954
Register.

Cher. Fr. R. 402

Cher. Fr. R. 402

See Cher. Fr. R. 400

6

KD965

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 4 1901

ACTING CHAIRMAN

To be filed in case of John H. Brown, CED-965.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 29th, 1901.

In the matter of the application of Charles Brown for the enrollment of himself and two children as Cherokee Freedmen; said Brown being sworn and examined by Commissioner T.B.Needles, testified as follows:

Appearances:
Messrs. Mellette & Smith, for applicants.
Messrs. Hastings and Davenport, for Cherokee Nation.

Q What is your name? A Charles Brown.
Q How old are you? A 71.
Q What is your post-office? A Ruby.
Q What district do you live in? A Coowescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A Couple of children.
Q What are their names? A Louvina.
Q How old is she? A 20.
Q The name of the next child? A Joseph.
Q How old is Joseph? A 18.
Q Are you married? A No, sir, my wife is dead.
Q What is your wife's name? A Sarah Jane.
Q She is the mother of these children? A Yes, sir.
Q Have you the custody of these children now? A Yes, sir.
Q Living with you? A Yes sir.

BY MR. SMITH:

Q Mr. Brown, what did you say your wife's name was? A Sarah Jane.
Q When did you marry her? A Oh, away before the war.
Q Where were you living at the time you married your wife?
A I was hired out, down to Van Buren.
Q Who hired youout? A Old Judge Brown my old owner, his right name is Jim Brown.
Q Well, were you a slave man were you? A Yes, sir.
Q Was JimBrown an Indian, a Cherokee Indian? A Yes, sir.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Where was he living at the time the war commenced? A Living on Lees Creek.
Q Is that in the Cherokee Nation or not? A Yes, sir, in the Cherokee Nation.
Q How far is that from Van Buren? A About 16 miles.
Q Well, these children for whom you apply who is the mother of these children? A Shewas state raised no man she was
Q The mother of these children? A Yes, sir.
Q When did you marry her? A She is the one I married.
Q I didn't ask you what she was, I asked you who was the mother of Louvina and Joseph? A Sarah Jane.
Q Did you have children older than Louvina and Joseph? A Yes, sir, there were six more older.
Q Do they intend to apply before this Commission for enrollment?
A Yes, sir.
Q Well, you can give their names, if any of them are married give their full names as they now appear? A The eldest one is named Rose Brown.
Q The next? A Bobbie Worley now, she is married.
Q The next one? A John Brown.
Q Well? A Next one is Charley.
Q Well, and Sam and Wash; that is all of them.
Q Where does Charley live now? A He lives up on Big Creek here.
Q In the Cherokee Nation? A Yes, sir.
Q Married or single? A He is married.
Q Where does Wash live? A Wash is living right over the river

about three or four miles.
Q Three or four miles from Nowata? A Yes, sir.
Q Married or single? A He is married.
Q Where does John live? A John lives on Panther Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Married or single? A Well, that was his woman that made application.
Q Separated from his wife? A Yes, sir.
Q Well, where does Abbie live? A She is in Vinita.
Q Married or single? A She is married.
Q What is her husband's name? A Worley.
Q What is his first name? A I think is name is Charley Worley.
Q Well, now, the other two I haven't asked you about, where do they live? A Sam is out in Oklahoma.
Q How long has he been out there? A He has been out there five or six months.
Q Where did he live before he went there? A He lived here.
Q Well, the other one? A They is the two, Louvina and Joe.
Q You have told where alll of them live except Louvina and Joe? A I told you where they live.
Q Have you give the names and residence of all of your children except Louvina and Joe? A Well, I have give them too, ain't I just told him where they live.
Q Well, have you give the names of all and where they live outside of them? A Yes, sir.
Q Where is Louvina living? A Living with her brother Charley.
Q Where does Joe live? A He is living with Joe Riley's son, Will Riley.
Q Which is the oldestone of these children? A Moses.
Q How old is he? A He is about 41 or 2 years old.
Q Give me the names of those who were born before the war? A Mose and Abbie was born before the war.
Q Where were the others born? A John was born during the war and the other was born since.
Q Well, you say you and your wife were married 40 years ago? A Yes, over 40.
Q? You lived together after the war? A Yes, sir.
Q Where did you and your wife live? A We lived in the Nation.
Q Where did she die? A She died down here on Panther Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Were you living together when each of these children you have named, when they were born? A Yes, sir, lived together until she died.
Q Well you say you were a slave of Jim Brown? A Yes, sir.
Q Were you taken out of the Nation or did you go out of the Nation while the war was going on? A Yes, sir, I went up to Fort Scott.
Q What time did you come back to the Cherokee Nation after the war? A I come back in time of the war; I was working for the Government down here to Gibson all during the war.
Q Well, how long did you stay at Fort Scott? A I stayed there until the war ceased; I didn't stay there I stayed down here in the nation, and I went back after my family after the war ceased.
Q Well, what time did you bring your family after the war ceased? A I come the year or two before I brought my family.
Q When did you bring your family? A I think it was in '70 I brought them down.
Q Where did you live yourself during the war? A I was in Fort Gibson.
Q Where were you in '66? A I was here in the Territory.
Q At what place? A I was down to Gibson.
Q Were you there all the year or part of the year? A No, I was just there a little while; I had a brother down there and I

went down there to see him.
Q Well, what time in the year was that? A '66.
Q What time of the year? A Along in the fall.
Q How long did you stay about Fort Gibson that time? A I didn't stay but a short time.
Q Where did you go then? A I come on back up in the country.
Q Whereabouts? A I come on Big creek.
Q In the Cherokee Nation? A Yes, sir.
Q How long did you stay up on Big Creek? A I stayed there a little while, didn't stay very long.
Q Then where did you go? A I went on back after my family.
Q Well, when did you come back with your family? A I went back that winter.
Q When was that? A Winter of '66 ('66)
Q How long did you stay when you went after your family?
A I stayed until the next spring, '70, lalong there in '67.
Q Well, when you said you brought your family here in '70 a while ago, is that correct? A No, sir, I brought her along in '67.
Q Did you know what time of the year it was you brought your family? A It was along in the summer.
Q What did your family consist of at that time, of yourself and children had been born? A Had three.
Q Where were the rest of them born? A They was born in the Nation.
Q What nation? A Cherokee Nation.
Q How old was the oldest one of these three children you brought back at the time you speak of? A They must have ben.
Q The oldestone? A The oldest one must have been five or six years old.
Q Where have you been living ever sine that time? A I have been right here in the Territory ever since.
Q Are you on any of the rolls? A I am on one, Wallace roll.

The 1880 authenticated roll, the 1896 census roll and the Kern-Clifton pay roll of Freedmen of the Cherokee Nation examined and names of applicants not found thereon.
The Wallace roll of Freedmen of the Cherokee Nation examined and named ofapplicants found thereon, as follows:
Page 103, #2204, Charles Brown, Cooweescoowee District.
Page 103, #2208, Luvina Brown, Cooweescoowee District.
Page 103, #2209, Joseph Brown, Cooweescoowee District.

BY MR. DAVENPORT:
Q You belonged you say to Judge Jim Brown when the war broke out?
A I was living right there home.
Q At home? A Yes, sir.
Q Did you know a man by the name of Jim Scott who lived in Arkansas before the war broke out? A Yes, sir.
Q I will ask you if you were not working for him and and was owned by him at the time the war broke out? A No, sir.
Q What children did Jim Brown have? A Henever had any children in his life.
Q What step children did he have? A Had one.
Q What was her name? A Her name was Nancy.
Q Had Jim Brown a wife? A Yes, sir, jim Brown had a wife.
Q Where was she living at the time the war broke out?
A Living on Lees Creek.
Q Where was Nancy living? A She was living about two or three miles from her mother's.
Q She is now Mrs. Nancy Seabolt? A I think so.
Q Have you seen her since the war? A No, I heard she was dead.
Q You have never went back to the old place after the war?
A No, sir.
Q How far did Jim Scott live from the Cherokee line? A He lived right on the line.

Q He lived on the Arkansas side? A Yes, sir.
Q Now, you want to Fort Scott in what year? A I went to Fort Scott in 1861.
Q You were married at that time? A Yes, sir.
Q Did you have any children at the time you went to Fort Scott?
A Woman had two.
Q Were they your children? A Yes, sir.
Q You wen t then to Fort Scott about what year? A I went up there in '61 after the war broke out.
Q How long had you been married before the war broke out?
A Four or five years, two or three years.
Q Well, now, when you came back from Fort Scott to what point did you come? A After I went up in '61?
Q Yes. A I came down to Gibson I come to Gibson driving a Government team.
Q You testified before the Kern-Clifton Commission? A Yes, sir.
Q Did you testify before that Commission anything about being in the Government service? A I think I did.
Q When was it you went to Snow Creek if at all? A I have been up to Snow Creek lots of times.
Q Well, then, immediately after the war did you come to Snow Creek then? A I come through there.
Q Did you stop with anybody? A I come on down to Big Creek and stopped with Morse Smith.
Q When did you go to Pryors Creek, on Pryor Creek, I didn't mean the Pryor Creek town?A I went down there some eight or ten years after I came back.
Q That is when you went down there where the Rileys and McNairs were living? A Yes, sir.
Q That was eight or ten years after you came back? A Yes, sir.
Q When was it you stayed all night with Dave French in this country?
A That was when I went up to Fort Scott, away along in '70.
Q That was when you brought your family down? A No, I had my family there.
Q Where was your family living when you stayed all night with Dave French?A My family was living down on Pryors Creek.
Q Where was your family living when you went down to the Rileys and McNair on Pryor Creek?A The first time I went down there that was after I had been here I was living up at Gooseneck when I went down there.
Q Where was Dave French living when you stayed with him? A Up where he is.
Q That was about '75? A Yes, sir, some where along in there.
Q You had been back about fice or six years when you stayed all night with Dave French? A Yes, sir.
Q All of your children were born in the Cherokee Nation? A I didn't say that.
Q Which of them were born out? A One of them was born in Kansas.
Q Now, which is it? A One.
Q Which one was that that was born in Kansas? A John, John was born in '65, 12th of February, '65.
Q You were then living in Kansas? A Yes, sir.
Q Who lived near Jim Brown over there when you were living with him? A My God I could not tell you.
Q Do you remember any of their names? A There was full blood Indians, there was a number of Indians lived around there.
Q Do you remember any of their names? A Bwnideep, Young Fawn and Jim Brown was living with his uncle.
Q You had never gone down there to see your young Master or your old Mistress to testify for you?A No, sir, I would not give anything for an Indian to testify for me.
Q You would not let one testify for you? A No, sir, unless I was acquainted with him.
Q You were well acquainted with Nancy Seabolt?A Yes, sir, we was

children together.
Q You would not be afraid to hear testify? A No, sir, I would be afraid you would be going around and talking to her.
Q How long did you go by the name of Will Thomas? A I never did go by the name of will Thomas.
Q Did you ever go by the name of Bill Thomas? A No, sir.
Q Did you ever go by any other name other than Charley Brown? A Yes, sir.
Q What name did you go by? A Bill Thompson.
Q Where were you living when you went by the name of Bill Thompson? A I was living up there.
Q What country? A Fort Scott.
Q How long did you go by the name of Bill Thompson at Fort Scott, Kansas? A I went by the name, that and I go by the name of it yet, lots of them calls me Bill Thompson.
Q How long did you go up there by the name of Bill Thompson? A As long as I stayed there.
Q How long did you stay there? A Until I come back.
Q How long was it until you come back? A Along in the fall of '61.
Q When did you go there? A In '61.
Q And come back in '61? A Yes, sir.
Q How did it happen that you went by the name of Bill Thompson? A They give me the nickname.
Q Who nicknamed you? A I don't know who it was, but I was down here to Gibson and they give me another name down there.
Q Did you have the name of Bill Thompson when you were working for Bill Scott in Arkansas? A No, sir.
Q What name did you go by there? A Charley Brown.
Q What name did they give you at Fort Gibson? A Charley Brown.
Q That wasn't a nickname? A Charley Brown is my right name.
Q Youhave just gone by the two names? A Yes, sir, and somtimes they call me Brock.
Q How did they happen to call you Brock? A They just got to devilling me.
Q How long did you stay about Gibson? A I stayed there until '65.
Q Near whom were you living? A I was in the Government service, scouting.
Q How long were you a scout for the Government? A About four months.
Q Who lived at Fort Gibson at that time? A Everybody of the soldiers.
Q What were you doing there? A I was going around with the soldiers, driving a government train, I drove three years and sixmonths and I quit that and went with Pole Childers in the scouting gang.
Q Was Conong Vann living there at that time? A I don't think he was.
Q Was Jim Vannliving there then? A I don't know.
Q Was F.H.Nash? A Yes, HNash was there I recollect him.
Q Was Aunt Ann Brown living there then? A Yes, sir.
Q What part of town did she live? A I think she lived back of Persel's store.
Q What time did Jim Scott come there? A He never did come there; Jim Scott was dead then.
Q Where did he die? A He died before the war they said; said he died in '59.

L.D.Daniels, being sworn by Commissioner T.B.Needles, testified as follows; BY MR. SMITH:
Q State your name? A L.D.Daniels.
Q Where do you live? A Claremore.
Q How long have you lived in the Cherokee nation? A All my life.
Q How old are you? A 56.

Q Do you know this applicant, Charles Brown, here? A Yes, sir.
Q How long have you known him? A I have been known him I got acquainted with him at Fort Scott in '65.
Q You didn't know him before the war? A No, sir.
Q Do you know where he was in 1866? A Yes, sir, I do.
Q Where? A I believe it was in December or just aft r Christmas I met him and his Uncle in Fort Gibson.
Q Just after Christmas? A Yes, sir, in '66.
Q How long after Christmas? A It wasn't long, three or four days or s ch a matter.
Q Was that or was it now the first time you had seen him at Fort Scott in '63? A Yes, sir, about the first time I seen him after that I seen him about once before that, I seen him in '63 in Fort Scott and I seen him in Christmas '64 and the third time was in Fort Gibson.
Q Well was the third time you are speaking ofnow? A Yes, sir.
Q How many times did you see him there? A Two or three times with Steve, I will call his name; I think he was his uncle; I said some relations, I don't know whether it was his uncle, brother or who it was.
Q How long did you stay at Fort Gibson after Christmas, '66?
A I stayed there all the time until '75, until the 5th day of July, '67.
Q Do you know where Charles Brown lives now? A Yes, sir, he has beenliving close to Chelsea before that he lived up there in five miles of me.
Q How long since he left the place five miles from you? A Five or six years.
Q Well, about when was it you saw him next after you saw him down there at Fort Gibson? A It was up to, I met him up here at Goose-neck.
Q When? A I am just thinking how long it has been, I don't know when just exactly, it has been 12 or 13 years, may be a little longer or not so long.
Q You don't know who he belonged to? A No, sir, I don't of my own knowledge.

BY MR. DAVENPORT:

Q You think it was sometime after Christmas and it was in '66?
A I know it.
Q Well, you lived there from '65 up until about '70?
A I lived there until the 5th of July.

BY COM'R NEEDLES:

Q Of what year? A '67.

BY MR. DAVENPORT:

Q It was some time after Christmas from the time you went there until you left? A Yes, sir.
Q You don't know how long he stayed there? A No, sir.
Q Don't know where he went after you left there? A No, sir.
Q And don't know to whom he belonged before the war? A No, sir, only what I heard.

MOSE HARDRICK, being duly sworn by Commissioner T.B.Needles, testified as follows: BY MR. SMITH:

Q State your name? A Mose Hardrick.
How old are you, Mr. Hardrick? A 71.
Q How long have you lived in the Cherokee nation? A Pretty nigh all my life.
Q Do you know this man, Charles Brown? A Yes, sir.
Q How long have you known him? A Well, I knowed him pretty nigh all through slavery.
Q Do you know who he belonged to? A Yes, sir; Jim Brown.
Q Was Jim Brown an Indian, Cherokee Indian A Yes sir.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
How far did you live from his owner, Jim Brown, during the war?
A I speet it was about between forty and fifty miles.

Q Where did you got acquainted with t is man? A Down on Lees Creek, here in the Cherokee Nation.
Q Was that where his owner lived? A Yes, sir.
Q Where do you live? A I lived at Park Hill and I had to go there in the fall to get stone coal.
Q Did you go out of the nation during the war yourself? A Yes sir.
Q When did you get back? A I got back in the spring of '66.
Q When did you see Brown first in the Cherokee Nation after the war, this applicant? A I guess it must have been about '67 I firat seen him, it was in cold weather.
Q You got back in the spring of '66, where were you in the time of Christmas after you spring you got back? A On the place I made there.
Q Do you know how long it was after Christmas you saw this man?
A I don't know.
Q What time did you think it was in '67 when you saw him?
A I think it was as well as I can recollect about December.
Q Of '67? A Yes, sir.
Q where was he when you saw him? A He was over on Grand River.
Q You don't know how long he had been back in the Cherokee Nation at that time? A No, sir.
Q What was he doing over on Grand River? A He was fixing to go to a dance.
Q After thatdid you see him any more? A Yes, sir.
Q When did you next see him after that? A I guess it must have been a year or two years if my mind serves me right.
Q Then where did you see him? A Seen himon Panther Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Do you know where he isliving now? A He is living withhis son Charley.
Q In what part of of the neighborhood or what part of the country?
A On Big Creek.
Q Do you know how long he has been living there? A No, sir, but he has been living with Charley pretty night ever since his wife died.
Q Do you know his wife? A Yes, sir.
Q where did you know his wife? A I got acquainted withher down here on Panther Creek awhile before she died.
Q You didn't know her before the war? A No, sir.
Q Was this man Charles Brown and she living together at that time?
A Yes, sir.
Q Have any children? A Yes, sir.
Q Do you know what their names were? A I know pretty nigh all them.
Q What are their names? A Sam, Wash, Charley, Joe Louvina.
Q Were they keeping house there? A Yes, sir, they was up there with him at that time.
Q With him and his wife? A Yes, sir.
Q Did they keep house? A Yes, sir, kept house and had a farm there.
Q Had a farm? A Yes, sir, on Panther Creek.
Q Well, do you know how long his wife has been dead? A No, I dont.
Q Been dead a good while or short while? A Been dead a good while
Q Several years? A Yes, sir.
Q You can't say how many? A No, sir, I would not like to say.

BY MR. DAVENPORT:

Q Now, Moss what family did he have the first time you saw him after the war? A T is family I am talking about now.
Q Now, how many children you say were born at the time you saw him when he was fixing to go to the dance? A I didn't say any of them was then born.
Q Did he have a family at that time? A I seen him I said.
Q Do you know whether he had a family at that time or not? A Yes sir.
Q Of what did his family consist? A I don't know.

Q Where was his family? A I don't know where they was at that time.
Q At whose house was the dance going to be given? A Over at Lynch's house.
Q Where? A Simon Lynch.
Q That was in the fall of '67? A Yes, sir.
Q You don't know where he had been prior to that time? A No, sir.
Q You lived near Park Hill before the war? A Yes, sir.
Q And he lived on the Arkansas line where Lees Creek runs into the Arkansas? A He lived above that.
Q He lived at the Jim Scott Mills in Arkansas when the war broke out? A I don't know about that.
Q Well, how long before the war was it since you saw this applicant A Several years.
Q Then you don't know where he was working before the war? A With Jim Brown.
Q How do you know? A Well when we come down here before the war he was plowing below there.
Q Didn't you answer me awhile ago that it was several years before the war? A This was in slavery times.
Q Well, now how many years before the war was it you had seen this applicant? A It had been several years.
Q So you don't know where he was living or to whom he belonged when the war broke out? A No, sir.

CHARLES BROWN, the Applicant, recalled:
BY COM'R NEEDLES:
Q Where was these children living now, Louvina and Joseph?
A Louvina is here, Joseph is on Panther Creek.
Q Are they both living with you? A Yes, sir.
Q Both born and raised in the Cherokee Nation? A Yes, sir.

COM'R NEEDLES: Charles Brown applies for the enrollment of himself and his two children, Louvina, 20 years of age, and Joseph, 18. He cannot be identified upon any of the rollsof the Cherokee Nation the Wallace roll, and he and his childrenare identifiedupon the Wallace roll, according to page and number of the rolls as indicated in the testimony. He avers that he was the sale of Jim Brown and makes satisfactory proof as to his residence consequently Charles Brown and his two children, Louvina and Joseph, will be listed for enrollment as Cherokee Freedmen upon a doubtful card, He will be notified at his post-office address of the decision of the Commission.

---oooOOOooo---

J.O.Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed)J.O.Rosson.

Subscribed and sworn to before me this 16th day of July, 1901.

(signed)T.B.Needles,
Commissioner.

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M.D.GREEN, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and thatsame is a true and complete copy of the original transcript

M D Green

Subscribed and sworn to before me this August 30th, 1901.

D Bates

Commissioner.

D

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THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
JUL 19 1901

ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I. T., June 29,1901.

In the matter of the application of John H. Brown for the enrollment of himself as a Cherokee Freedman; being sworn and examined by Commissioner Needles, he testified as follows:

Appearances:
Mr. Smith, of Mellette & Smith, for the applicant;
Mr. Davenport, for the Cherokee Nation.

Q What is your name? A John H. Brown.
Q How old are you? A 36.
Q What is your post-office address? A Aluwee.
Q What district do you live in? A Coowescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A 2 children.
Note: It is found that this applicant's wife enrolled in the fore-noon of this day, and enrolled these 2 children.
Q Your wife has the children? A No sir, she had them at first and she found out she couldn't take care of them as sliak as she thought and she brought them to me, and I have had them ever since.
BY MR. SMITH:
Q Who is your father? A Charley Brown.
Q Is he the same Charley Brown who applied here this morning for enrollment? A Yes sir.
Q Have you some brothers? A Yes sir, Charley, Samuel, Washington and Joseph and Moses, the older one.
Q Are they the same ones who applies here to-day for enrollment? A Yes sir.
Q Where do you live? A On Panther Creek.
Q How long have you lived in the Cherokee Nation? A I have lived here ever since my folks come down here in '66.
Q How old are you? A I am 36.
Q You have lived here all your life? A Yes sir.
BY MR. DAVENPORT:
Q Never lived anywhere else? A No sir.
Q Been living on Panther Creek all the time? A No sir.
Q What part of the Cherokee Nation were you living when you first recollect? A Somewhere about Gooseneck Bend I think.
Q How big was you when you was living in Kansas? A I wasn't never in Kansas, not since I was a baby, in the year '65.
Q You were born when? A In '65.
Q And have lived here ever since? A Yes sir.
BY COM'R ~~NEEDLES~~:
Q What is your wife's name? A My wife I used to have is named Sevina.
Q What's your wife's name now? A I aint got ary one now.
BY MR. SMITH:
Q Are you on the Dorn-Clifton roll? A No sir, I am on the Wallace and I suppose I am on the 1896 census roll.

Wallace roll of citizens of the Cherokee Nation examined and applicant identified on page 108 ~~entry~~ John H. Brown, Coowescoowee District.
1896 census roll of citizens of the Cherokee Nation examined and applicant not found;
1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not found.

Com'r Needles: John H. Brown applies for the enrollment of himself; he cannot be identified upon the rolls of the Cherokee Nation in the possession of the Commission, except the Wallace roll; he makes satisfactory proof of

John H. Brown #

to residence, ante hit citizenship reference is made to the testimony taken in the application of his father, Charles Brown, listed for enrollment on D card 963, the testimony taken in the matter of the application of said Charles Brown will be made a part of the record in the case at bar, and a copy thereof filed herewith; and said John H. Brown will now be listed for enrollment as a Cherokee Freedman, on a doubtful card; he will be notified by the commission at his post-office address of their decision in the premises.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this July 13, 1901.

Commissioner.

mjc

C F D 963.

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, I. T., February 18, 1902.

In the matter of the application of Charles Brown, for the enrollment of himself and children as Cherokee Freedmen:

Appearances:
Mellette & Smith, Vinita, I. T., for the applicants;
W W Hastings, and
James S. Davenport, for the Cherokee Nation.

JAMES A. SCOTT, being sworn and examined, testified as follows:

Examined by Mr. Davenport:

Q What is your name ? A James A. Scott.
Q Where do you live ? A I live here at Muskogee.
Q What is your age ? A 54 years.
Q Where were you living when the war broke out ?
A Elk Hill, Nevada County, Missouri.
Q Living with your parents at that time ? A Yes sir with my mother.
Q Do you know a colored man who goes by the name of Charles Brown ?
A Yes sir.
Q How long have you known him ? A Mr. Davenport I can't recall when my father first bought him; just the year; but my father bought him as a slave. It was sometime in '57 or '56.
Q Do you know from whom your father got him ?
A Except from the family talk. I do not know of my own knowledge. I know that either Lewis or Jim Hilderbrand brought him there.
Q Was your father a citizen of the Cherokee Nation ? A No sir.
Q Your father, as I understand you, then, bought Charles sometime in the fifties ? A Yes sir.
Q About how long did he keep him ? A I don't know-- He was with us, he must have been with us some four or five years.
Q What became of him ? If your father made any disposition of him to whom did he dispose of him ? A My father sold him to my uncle Charles D. Scott, of Van Buren, Arkansas.
Q He was taken away from your father's home ? A Yes sir.
Q To Van Buren, Arkansas ? A Yes sir.
Q Was your uncle a citizen of the Cherokee Nation ? A No sir.
Q Where was he when the war broke out ? A I can't x swear that.
Q Do you know whether or not he was still the property of your uncle at that time ? A Not of my personal knowledge sir.
Q Do you know whether or not after the fifties up to the time he disposed of him Charles had ever been the slave of Judge Jim Brown ?
A No sir.
Q Do you know Judge Brown ? A No sir. I don't think my father bought him from Judge Brown. I think he got him from the Hilderbrands. I know they brought him there.
Q Your uncle to whom he was disposed of by your father lived in Arkansas ? A Yes sir, at Van Buren.
Q Up to the breaking out of the war where did you say Charles was ?
A I don't know certainly, for I never saw him after my father sold him until I saw him at the establishment of the court here several years ago.
Q The establishment of which court do you mean Mr. Scott ?
A I never can tell which court came here at, I believe, the first term of this court in April, 1890, the court here at Muskogee.
Q You speak of the United States court ? A Yes sir.
Q You knew him then as the party that had been with your father ?
A Oh yes, he came over to the store to see me, and stayed at my house while he was here.

Q You didn't know where he had been living during the war and after the war ? A Not of my own knowledge.
Q Your father bought him sometime in the fifties ? A Yes sir.
Q And kept him; about how long before the war did he sell him ?
A I think he must have sold him in 1859 or 1860. He lived with him after he married this woman Sarah. She was the property of my father. And this boy Mose was born to them there on that place.
Q The first child by Sarah, he was born there on your father's place ? A Yes sir.
Q His name was what ? A Moses.
Q When your father sold Charles to your uncle did he sell all of them ? Did they all go ? A No, they stayed until 1862 when they were taken off by Phillips or Ritchie's men Mose wasn't taken, but his wife was. At the time the Federals made the raid through there, they were living, Sarah Jane and this child, on the north of the river, and on the Sunday morning the raid was made she was at my mother's house. She left there with the soldiers and left this child Moses over on the north side of the river.
Q At the breaking out of the civil war to whom did Sarah Jane and this child Moses belong ? A To my mother; my father was dead.
Q Your mother was not a citizen of the Cherokee Nation ?
A No sir.
Q Had no claims to citizenship in the Cherokee Nation ?
A No sir.
Q You were living on the home place in Missouri at the time ?
A Yes sir.
Q Sarah Jane was taken away during the war when these commands came through there ? A Yes sir.
Q When did Mose leave ? A While I believe this is all so, this is not of my own personal knowledge. Sometime in that summer.

Mr. Smith: Now don't tell it. A I was in the country there and very close to them, but I wasn't at home at the time.

Examined by Mr. Smith:

Q Mr. Scott, what you really know is that your father owned a man by the name of Charley Brown before the war ? A Yes sir.
Q You don't know of your own personal knowledge that that same man is the applicant in this case ? A Yes sir I do.
Q How do you know it ? A I knew Charley Brown that was brought there, and I knew him when he was here. Besides, he told me of his application for citizenship.
Q But this application was made on the 29th day of June, 1901 at Nowata; were you there ? A No sir. Well, I still stick to it that I do know it. I can't get away from that belief.
Q Now you don't know it do you ? A Mr. Smith, I do know it from the fact that from what took place between us, and from what took place up there; and I heard of it.
Q You can't testify to hear-say. A To come right down to it I am satisfied that this is the same man.
Q What we want is facts. You can't swear positively that he is the same Charley Brown that you are talking about can you ?
A Right straight up and down, no.
Q How you think it was about 1859 when your father sold the man you were talking to here to your father's brother at Van Buren, Arkansas
A I think it was in there somewhere. I aint going to be positive as to the year.
Q Well it was somewhere in the fifties ? A Yes sir. I know that. Here's what makes me think I may be wrong as to the

time he came there, the fact that Mose, when he left there, must have been about three or four years old.
Q It must have been somewhere in the fifties that your father parted with the man you talked to ? A Yes sir.
Q How far did your father's brother live from where you lived ?
A About one hundred miles.
Q Between the time your uncle bought this man and the beginning of the civil war did you see this man Charley Brown ? A No sir.
Q You don't know then, of your own personal knowledge where this man Charley Brown was at the time the civil war commenced ?
A No sir.
Q You don't know of your own personal knowledge whether he was sold again after he was sold to your uncle or not ? A I do not.

Examined by Mr. Davenport:

Q You do know that the Charley Brown that belonged to your father had a boy named Mose ? A Yes sir.
Q And that Mose was the property of your mother after the breaking out of the war ? A Yes sir.
Q Do you know whether Charley ever rejoined his wife after the war?
A Not of my personal knowledge.

---

MRS. ANNA H. DODSON, being sworn and examined, testified as follows:

Examined by Mr. Davenport:

Q Where do you live Mrs. Dodson ? A I live here in Muskogee.
Q How old are you ? A Fifty eight years old.
Q Where were you living when the civil war broke out ?
A At Elk Hill, Missouri.
Q You are the sister of Mr. Jim Scott ? A Yes sir I am.
Q Do you know a colored man by the name of Charley that at one time belonged to your father ? A Yes sir.
Q Do you know about when your father bought him ?
A I wouldn't be positive, but I think in 1853.
Q Is there any circumstance that makes you think he was bought at a certain date ? A We bought him before I went away to school.
Q Did Charley have a wife ? A Yes sir.
Q What was her name ? A Sarah Jane.
Q Did your father sell him before the breaking out of the war ?
A Yes sir.
Q About when was he sold as near as you can remember ?
A In February, 1858.
Q Do you know whether or not Charley and his wife had any children
A Yes sir, two.
Q Do you remember their names ? A Moses and Abbie.
Q Were they sold at the same time Charley was sold ? A No sir.
Q Where were they when the war broke out ? A Living on my father's farm.
Q Do you know to whom Charley was sold ?
A To my uncle Charles Scott.
Q Where was he living ? A At Van Buren, Arkansas.
Q After your father sold Charley before the breaking out of the war, did you ever see Charley afterwards ? A Yes sir.
Q Where ? A At Van Buren, at my uncle's.

Q Had you visited there ? A I was living there.
Q Do you know whether or not your uncle owned Charley at the breaking out of the war ? A No sir he did not. He sold him.
Q In what section of the country did he sell him ?
A He sold him to a Louisiana planter.
Q Do you remember his name ? A No sir.
Q Do you know whether or not he had been taken away from your uncle's home when the war broke out ? A Yes sir he had.
Q Have you seen Charley since the war ? A Yes sir.
Q Do you know whether he has ever married ?
A He said he had a family.

Mr. Smith: I object to what he said.

Examined by Mr. Smith:

Q Van Buren, Arkansas, is just across the river from the Cherokee Nation is it not Mrs. Dodson ? A I don't know. I know Van Buren is close to the line, but I don't know how far.
Q You don't know what became of Charley after your uncle sold him? You don't know what became of him finally ?
A He ran away from my uncle once, and he got him back, and when he sold him to this Louisiana planter he ran off again and came up into this country, and was around my father's house. I didn't see him, but they saw him and told me he was there.

---

The Commission: This testimony will be filed with the following doubtful Cherokee Freedman cases : D 952; D 954 and D 965.

---

E. C. Bagwell, on oath states that, as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings had in the above entitled cause, and that the above and foregoing is an accurate transcript of the same as appears from my stenographic notes thereof.

E. C. Bagwell.

Subscribed and sworn to before me this February 26, 1902.

Commissioner.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209, filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

John H. Brown, D 965;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any or the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly stremuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

---

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

---

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Charles Brown et al., as Cherokee Freedmen, consolidating the applications of

Charles Brown et al.- - - - -Cherokee Freedmen D 952
Washington Brown - - - - - - -Cherokee Freedmen D 738
Charles Brown Jr. - - - - - - -Cherokee Freedmen D 954
John H. Brown - - - - - - - - -Cherokee Freedmen D 965

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Charles Brown, for himself and minor children, Louvina and Joseph Brown; by Washington Brown, for himself; by Charles Brown, Jr., for himself; and by John H. Brown, for himself.

The evidence shows that the applicant, Charles Brown, was born prior to the commencement of the rebellion and that he was not the slave of a Cherokee citizen nor a free colored person residing in the Cherokee Nation at the commencement of the rebellion.

The evidence further shows that all the other applicants herein have been born since the close of the rebellion and are the descendants of and claim right to enrollment through the said Charles Brown.

None of the names of said applicants are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Charles Brown, Louvena Brown, Joseph Brown, Washington Brown, Charles Brown, Jr., and John H. Brown, as Cherokee Freedmen, should be denied under the previsions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby, Chairman.
" T.B.Needles, Commissioner.
" C.R.Breckinridge, Commissioner.
" W.E.Stanley, Commissioner.

Muskogee, Indian Territory,

this Mar 8,1904.

COMMISSIONERS:
HENRY L. DAWES,
JAMES BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, Aug 6, 1901

Received of the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application of Ina H Brown for enrollment as Cherokee freedman.

Mellett & Smith
Attys for applicant

Cherokee Freedman #D965

D

No. D 965

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the ..... day of ..... A. D. 1901

Given under my hand this ..... day of ..... A. D. 1901.

.....
Marshal for the Cherokee Nation.

---

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the SF ..... day of ....., 1901.

.....
Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the ..... day of ..... A.D. 1901

.....

Subscribed and sworn to before me this ..... day of ..... A.D. 1901.

.....
Notary Public.

# NOTICE!

*IN THE MATTER OF* the application of John H. Brown for enrollment as a Cherokee citizen:

Case No. D 965

To John H. Brown or Mellette & Smith his Attys.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of Fort Gibson, I. T. Indian Territory, on Sept. 26th at 8 o'clock A. M. from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 17 1901

L. B. Bell

W. W. Hastings

*Attorneys for the Cherokee Nation.*

MDG

COMMISSIONERS.
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE,
W. E. STANLEY.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee F. D-965

Muskogee, Indian Territory, March 16, 1904.

John H. Brown,

Alluwe, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 8, 1904, rejecting, among others, your application for the enrollment of yourself as a Cherokee Freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. Breckinridge

Register. Commissioner in Charge.

Enc. C-4

Cherokee F.D-953,
D-954, D-965.

Muskogee, Indian Territory, March 16, 1904.

Edgar Smith,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, rejecting, among others, the applications for the enrollment of Charles, Louvena, Joseph, Charles, Jr. and John H. Brown, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Register.

Enc. 6-5

[redacted]

Muskogee, Indian Territory, March 24, 1906.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1906, in the consolidated cases of Charles Brown, et al., vs. Dennis, rejecting the applications for the enrollment of Charles, Lawrence, Joseph, Washington, Charles, Jr. and John L. Brown, as Cherokee freedmen.

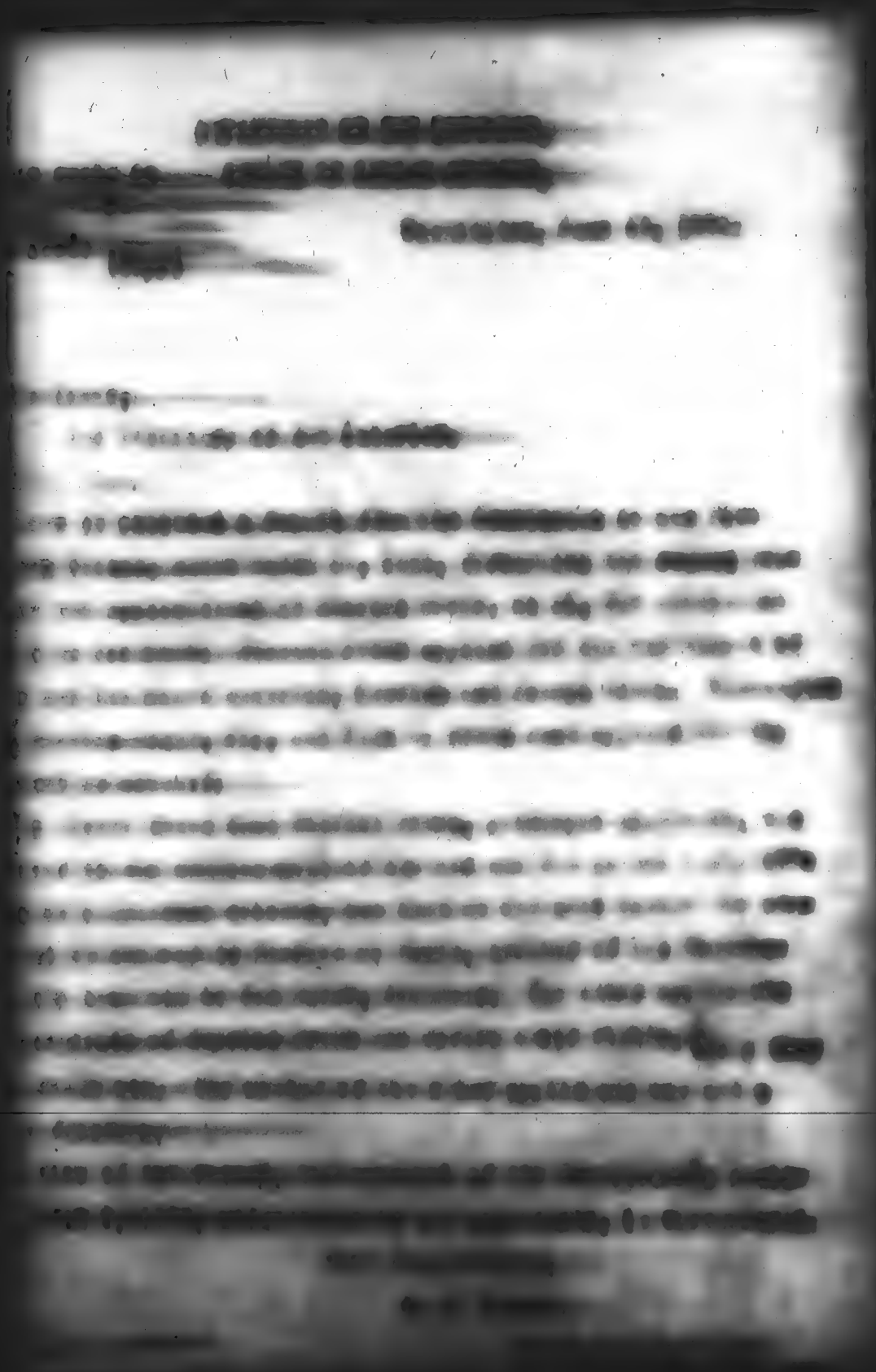
The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

[redacted]
Commissioner in Charge.

Enc. 66.







[redacted]

Cherokee freedmen
D 982, et al.

Muskogee, Indian Territory, June 26, 1904.

W. W. Hastings,

Attorney for the Cherokee nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 8, 1904, rejecting the applications for the enrollment of Charles, Joseph, Charles, Jr., Washington, and John E. Brown, and Louvenia Gorham, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

M59

COMMISSIONERS.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

WM. O. BRALL,
SECRETARY

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING

Cherokee Freedmen.
D 968

Muskogee, Indian Territory, June 28, 1904.

John R. Brown,

Allowe, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting, among others, your application for the enrollment of yourself as a Cherokee freedman, was affirmed by the Secretary of the Interior on June 25, 1904.

Respectfully,

Commissioner in Charge.

REFER IN REPLY TO THE FOLLOWING:
Cherokee Freedmen
R-402

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, May 28, 1906.

John E. Brown,
Alluwe, Indian Territory.

Dear Sir:-

You are hereby advised that the motion filed by your attorneys September 7, 1905, for a review in your Cherokee freedman enrollment case, was dismissed by the Department May 2, 1906.

Respectfully,

W. O. Beall
Acting Commissioner.

LC

Muskogee, Indian Territory, May 28, 1906.

Blue & Bulger,

Attorneys for Eliza A. Arnold, et al.,

Vinita, Indian Territory.

Dear Sir:-

You are advised that this office is in receipt of Departmental letter of May 8, 1906, a copy of which is enclosed herewith, denying motions filed by you September 7, 1905 for review in the Cherokee Freedman enrollment cases of Eliza A. Arnold and others named in said letter.

Respectfully,

Commissioner.

MCP

Muskogee, Indian Territory, May 29, 1906.

Bell, Hastings & Davenport,

Attorneys for Cherokee Nation,

Vinita, Indian Territory.

Gentlemen:-

You are advised that this office is in receipt of Departmental letter of May 2, 1906, a copy of which is enclosed herewith, denying motions by Blue & Bulger, filed September 7, 1905, for review in the Cherokee Freedmen enrollment cases of Eliza A. Arnold and others named in said letter.

Respectfully,

Commissioner.

LMC

B

7096

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 29 1901
ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date June 29. 1901

Post Office Atoka I.T.

District Coo

1. Name John H Brown Age 36

Owner's name ..... Citizenship .....

Year K. C Page 102 No. 2172 District Coo

Parents:

Father Chas Brown – Cher. Citizenship Cher. Freedman

Mother ..... Citizenship .....

2. Name of wife ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father Doubtful Citizenship .....

Mother ..... Citizenship .....

Names of Children:

3. ..... Year ..... Page ..... No. ..... Dist. .....
4. ..... Year ..... Page ..... No. ..... Dist. .....
5. ..... Year ..... Page ..... No. ..... Dist. .....
6. ..... Year ..... Page ..... No. ..... Dist. .....
7. ..... Year ..... Page ..... No. ..... Dist. .....
8. ..... Year ..... Page ..... No. ..... Dist. .....
9. ..... Year ..... Page ..... No. ..... Dist. .....
10. ..... Year ..... Page ..... No. ..... Dist. .....
11. ..... Year ..... Page ..... No. ..... Dist. .....
12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by No. 1 Stenographer M. D. Green

x Reft D952

Represented by Mellette and Smith

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mr. John H. Brown,
Allowe, I. T.
Cherokee F-D-[illegible]
Register.

Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

FR 402

John H. Brown,
Davis Delin
Indian Territory.

MUSKOGEE IND. TER. JUL 8 — P 1904

PENALTY FOR PRIVATE USE $300

Department of the Inter
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.
OFFICIAL BUSINESS.
Penalty for private use, $300.

10644
10408

Return
Uncalled for.

John H. Brown,
Allums, Indian Territory.

REGISTERED
MAR 19
MUSKOGEE, IND. TER.

Rec'd No 1
APR 22 1904
Present address
not known

Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

MUSKOGEE
MAY 29
7-PM
19 IND.T. 08

Return to Writer

Cher. Fr. R. 403

See Cher. Fr. 993, R 400

Cher. Fr. R. 403

DOUBTFUL, as to Applicant:

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MOWATA, I.T., JUNE 17th, 1901.

In the matter of the application of Washington Brown for the enrollment of himself, wife and three children as Cherokee Freedmen; said Brown being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Washington Brown.
Q How old are you? A I could not tell just how old I am.
Q Well, about how old? A About 27 years old.
Q What is your post office address? A Ruby.
Q What district do you live in? A In Coowescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman?
A Yes, sir.
Q Do you apply for your wife and children? A My wife is on the 1880 roll.
Q Do you want her enrolled? A Yes, sir.
Q What is her name? A Her name is Aseney Brown, her name is Bryant on the '80 roll.
Q How old is she? A She is about 26.
Q How many children have you? A Three.
Q Give me their names? A The first one is Richard.
Q Richard Brown? A Yes, sir.
Q How old is he? A He was born in '93, in October.
Q That would make him eight years old? A Yes, sir.
Q What is the next one? A Rhoda Brown.
Q How old is she? A She is six years old.
Q The next one? A Phillips.
Q How old is Phillips? A He is four.
Q Are these children all living at this time? A Yes, sir.
Q Living with you? A Yes, sir.
Q You say your wife's name is on the roll of 1880? A Yes, sir.
Q Is your name on any of the rolls of the Cherokee Nation?
A On the Wallace roll.
Q Did you draw what is known as the strip money? A No, sir, I didn't draw it.
Q Have you any proof of your marriage to your wife?
A Preacher Tucker married us.
Q Have you any certificate of marriage? A No, sir, he never give us any.
Q Is he living? A Yes, sir.
Q When were you married? A We was married in '92.
Q What was your wife's name before you married her?
A She was Bryant.
Q Have you been living with her contuously since you married her? A Yes, sir.
Q Living with her now are you? A Yes, sir.

The 1880 Authenticated Roll of citizens of the Cherokee Nation examined and name of applicant not found thereon; name of applicant's wife found thereon, page 619, #169, Seney Bryant, Saline District.

APPLICANT: This Bryant part that is her stepfather's name.
Q What was her mother's name? A Her mother was named Nancy Bryant.
Q What was your wife's name? A Her name was Aseney Bean, and her mother enrolled her with her.
Q What is her name on the 1896 roll? A Aseney Brown.

The 1896 Census Roll of Freedmen of the Cherokee Nation examined and names of applicants not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and names of applicants found thereon as follows:

Page 14, #343, Seney Brown, nee Bryant, Saline District.
Page ~~13~~ 13, #342, ~~Richard~~ Richard Brown, Saline Dstirct.

Q Has your wife, Aseney, always lived in the Cherokee Nation?
A Yes, sir.
Q Born and raised in the Cherokee Nation? A Yes, sir.
Q What was your father's name? A Charley Brown.
Q Is he living? A Yes, sir.
Q Has he been enrolled? A Not yet.
Q What was your mother's name? A Sarah Brown.
Q Is she living? A No, sir, she is dead.
Q Was she a citizen? A No, sir.
Q Your father was a citizen? A Yes, sir.
Q Will your father be here? A Yes, sir, he is here now.

The Wallace Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 103, #2207, Washington Brown, Cooweescoowee District.

Q Washington, were you born in the Cherokee Nation? A Yes, sir.
Q Always lived in the Cherokee Nati on? A Yes, sir.

COM'R NEEDLES: Washington Brown applies for the enrollment of himself , his wife, Aseney, and three children to-wit: Richard, Rhoda and Phillips. He avers that he was married to his wife, Aseney, whose maiden name was Bryant, and she is duly identified upon the authenticated roll of 1880 as well as the Kern-Clifton pay roll. The name of hi s oldest child, Richard, is identified upon the Kern Clifton roll. Ye himself is identified only upon the Wallace roll, all according to the page and numb er of the rolls as indicated in the testimony. The applicant avers that besides his oldest one, Richard, he has two children, Rhoda and Phillips, and that his wife, Aseney, is the mother of s aid children. The names of Rhoda and Phillip are not foujd upom any roll and it will be necessary for him to file satisfactory proof of the birth of said children. Satisfactory proof of residence is made both as to his wife and children, consequently Aseney Brown and his children, as en umerated herein, will be listed for enrollment as Cherokee Freedmen. In order to complete the enrollment of ~~xx~~ his younger children, it will be necessary for the applicant to file satisfactory proof of their birth. Applicant avers that he is the son of Charly and Sarah Brown. His name ~~xx~~ is not found upon the authenticated roll of 1880, neither can the name of his father or mother, but he avers that his father was a citizen and that his mother was a non-citizen. His father has not yet applied for enrollment but is present for that purpose. T e testimony that will be taken in the case of Charley Brown, the father of the applicant, will be made part of the record in the case of the applicant and a copy thereof will be filed herewith. Consequently Washington Brown will be listed for enrollment as a Cherokee Freedman upon a doubtful card.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscri bed and sworn to before me this June 28th, 1901.

Commissioner.

To be filed in C.F.-D.#738, Washington Brown.

Department of the Interior,
Commission to the Five Civilized Tribes,
Nowata, I.T., June 29th, 1901.

In the matter of the application of Charles Brown for the enrollment of himself and two children as Cherokee Freedmen; said Brown being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Messrs. Mellette & Smith, for applicants.
Messrs. Hastings and Davenport, for Cherokee Nation.

Q What is your name? A Charles Brown.
Q How old are you? A 71.
Q What is your postoffice? A Ruby.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman?
A Yes, sir.
Q Who do you want to enroll besides yourself? A Couple of children.
Q What are their names? A Louvina.
Q How old is she? A 20.
Q The name of the next child? A Joseph.
Q How old is Joseph? A 18.
Q Are you married? A No, sir, my wife is dead.
Q What is your wife's name? A Sarah Jane.
Q She is the mother of these children? A Yes, sir.
Q Have you the custody of these children now? A Yes, sir.
Q Living with you? A Yes, sir.

BY MR. SMITH:

Q Mr. Brown what did you say your wife's name was?
A Sarah Jane.
Q When did you marry her? A Oh, away before the war.
Q Where were you living at the time you married your wife?
A I was hired out, down to Van Buren.
Q Who hired you out? A Old Judge Brown my old owner, his right name is Jim Brown.
Q Well, were you a slave were you? A Yes, sir.
Q Was Jim Brown an Indian, a Cherokee Indian? A Yes, sir.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Where was he living at the time the war commenced?
A Living on Lees Creek.
Q Is that in the Cherokee Nation or not? A Yes, sir, in the Cherokee Nation.
Q How far is that from Van Buren? A About 18 miles.
Q Well, these children for whom you apply who is the mother of these children? A She was state raised woman she was.
Q The mother of these children? A Yes, sir.
Q When did you marry her? A She is the one I married.
Q I didn't ask you what she was, I asked you who was the mother of Louvina and Joseph? A Sarah Jane.
Q Did you have children older than Louvina and Joseph? A Yes, sir, there were six more older.
Q Do they intend to apply before this Commission for enrollment?
A Yes, sir.
Q Well, you can give their names, if any of them are married give their full names as they now appear? A The oldest one is named Mose Brown.
Q The next one? A Abbie Morley now, she is married.
Q The next one? A John Brown.
Q Well? A Next one is Charley.
Q Well? A And Sam and Wash; that is all of them.
Q Where does Charley live? A He lives up on Big Creek here.
Q In the Cherokee Nation? A Yes, sir.
Q Married or single? A He is married.
Q Where does Wash live? A Wash is living right over the river about three or four miles.
Q Three or four miles from here? A Yes, sir.

Q Married or single? A He is married.
Q Where does John live? A John lives on Panther creek.
Q In the Cherokee Nation? A Yes, sir.
Q Married or single? A Well, that was his woman that made application.
Q Separated from his wife? A Yes, sir.
Q Well, where does Abbie live? A She is in Vinita.
Q Married or single? A She is married.
Q What is her husband's name? A Worley.
Q What is his first name? A I think his name is Charley Worley.
Q Well, now, the other two I haven't asked you about, where do they live? A Sam is out in Oklahoma.
Q How long has he been out there? A He has been out there five or six months.
Q Where did he live before he went there? A He lived here.
Q Well, the other one? A They is the two, Louvina and Joe.
Q You have told where all of them live except Louvina and Joe? A I told you where they live.
Q Have you give the names and residence of all of your children except Louvina and Joe? A Well, I have give them too, ain't I just told him where they live.
Q Well, have you give the names of all and where they live outside of them? A Yes, sir.
Q Where is Louvina living? A Living with her brother Charley.
Q Where does Joe live? A He is living with Joe Riley's son, Will Riley.
Q Which is the oldest one of these children? A Moses.
Q How old is he? A He is about 41 or 2 years old.
Q Give me the names of those who were born before the war? A Moses and Abbie were born before the war.
Q Where were the others born? A John was born during the war and the other was born since.
Q Well, you say you and your wife were married40 years ago? A Yes, sir, over 40.
Q You lived together after the war? A Yes, sir.
Q Where did you and your wife live? A We lived in the Nation.
Q Where did she die? A She died down here on Panther Creek.
Q In the Cherokee Nation? A Yes, sir.
Q Were you living together when each of these children you have named, when they were born? A Yes, sir, lived together until she died.
Q Well, you say you were a slave of Jim Brown? A Yes, sir.
Q Were you taken out of the Nation or did you go out of the Nation while the war was going on? A Yes, sir, I went up to Fort Scott.
Q What time did you come back to the Cherokee Nation after the war? A I came back in time of the war; I was working for the government down here to Gibson all during the war.
Q Well, how long did you stay at Fort Scott? A I stayed there until the war ceased; I didn't stay there I stayed down here in the Nation, and I went back after my family after the war ceased.
Q Well, what time did you bring your family after the war ceased? A I come the year or two before I brought my family.
Q When did you bring your family? A I think it was in '70 I brought them down.
Q Where did you live yourself during the war? A I was in Fort Gibson.
Q Where were you in '66? A I was here in the Territory.
Q At what place? A I was down to Gibson.
Q Were you there all the year or part of the year? A No, I was just there a little while; I had a brother down there and I went down there to see him.
Q Well, what time in the year was that? A '66.
Q What time of the year? A Along in the fall.
Q How long did you stay about Fort Gibson at that time? A I didn't stay but a short time.

Q Where did you go then? A I come on back up in the country.
Q Where abouts? A I come on Big Creek.
Q In the Cherokee Nation? A Yes, sir.
Q How long did you stay up on Big Creek?
A I stayed there a little while, didn't stay very long.
Q Then where did you go? A I went on back after my family.
Q Well, when did you come back with your family? A I went back that winter.
Q When was that? A Winter of '66.
Q How long did you stay when you went after your family?
A I stayed until the next spring, '70, along there in '67.
Q Well, when you said you brought your family here in '70 a while ago, is that correct? A No, sir, I brought her along in '67.
Q Did you know what time of the year it was you brought your family? A It was along in the summer.
Q What did your family consist of at that time, of yourself and children had been born? A Had three.
Q Where were the rest of them born? A They was born in the Nation.
Q What Nation? A Cherokee Nation.
Q How old was the oldest one of these three children you brought back at the time you speak of? A They must have been.
Q The oldest one? A The oldest one must have been five or six years old.
Q Where have you been living ever since that time?
A I have been right here in the Territory ever since.
Q Are you on any of the rolls? A I am on one, Wallace roll.

The 1880 Authenticated Roll, the 1896 census roll, and Kern-Clifton pay roll of Freedmen of the Cherokee Nation examined and names of the applicants not found thereon.
The Wallace roll of Freedmen of the Cherokee Nation examined and names of applicants found thereon, as follows:
Page 103, #2204, Charles Brown, Cooweescoowee District.
Page 103, #2208, Luvina Brown, Cooweescoowee District.
Page 103, #2209, Joseph Brown, Cooweescoowee District.

BY MR. DAVENPORT:
Q You belonged you say to Judge Jim Brown when the war broke out?
A Yes, sir.
Q Where were you living at the time the war broke out?
A I was living right home.
Q At home? A Yes, sir.
Q Did you know a man by the name of Jim Scott who lived in Arkansas before the war broke out? A Yes, sir.
Q I will ask you if you were not working for him and was owned by him at the time the war broke out? A No, sir.
Q What children did Jim Brown have? A He never had any children in his life.
Q What stepchildren did he have? A Had one.
Q What was her name? A Her name was Nancy.
Q Had Jim Brown a wife? A Yes, sir, Jim Brown had a wife.
Q Where was she living at the time the war broke out?
A Living on Lees Creek.
Q Where was Nancy living? A She was living about two or three miles from her mother's.
Q She is now Mrs. Nancy Seabolt? A I think so.
Q Have you seen her since the war? A No, I heard she was dead.
Q You have never went back to the old place after the war?
A No, sir.
Q How far did Jim Scott live from the Cherokee line.
A He lived right on the line.
Q He lived on the Arkansas side? A Yes, sir.
Q Now, you went to Fort Scott in what year? A I went to Fort Scott in 1861.

Q You were married at that time? A Yes, sir.
Q Did you have any children at the time you went to Fort Scott?
A Woman had two.
Q Were they your children? A Yes, sir.
Q You went then to Fort Scott about what year? A I went up there in '61 after the war broke out.
Q How long had you been married before the war broke out?
A Four or five years, two or three years.
Q Well, now, when you came back from Fort Scott to what point did you come? A After I went up in '61?
Q Yes. A I come down to Gibson, I come to Gibson driving a government team.
Q You testified before the Kern-Clifton Commission? A Yes, sir.
Q Did you testify before that Commission anything about being in the Government service? A I think I did.
Q When was it you went to Snow Creek if at all? A I have been up to Snow Creek lots of times.
Q Well, then, immediately after the war did you come to Snow Creek then? A I come through there.
Q Did you stop with anybody? A I come on down to Big Creek and stopped with Mose Smith.
Q When did you go to Pyrors Creek, or Pryor Creek, I didn't mean the Pryor Creek town? A I went down there some eight or ten years after I come back.
Q That is when you went down there where the Rileys and McNairs were living? A Yes, sir.
Q That was eight or ten years after you came back? A Yes, sir.
Q When was it you stayed all night with Dave French in this country?
A That was when I went up to Fort Scott, away along in '70.
Q That was when you brought your family down?
A No, I had my family here.
Q Where was your family living when you stayed all night with Dave French? A My family was living down on Pryors Creek.
Q Where was your family living when you went down to the Rileys and McNair on Pryors Creek? A The first time I went down there that was after I had been here I was living up at Gooseneck when I went down there.
Q Where was Dave French living when you stayed with him?
A Up where he is.
Q That was about '75? A Yes, sir, somewhere along in there.
Q You had been back about five or six years when you stayed all night with Dave French? A Yes, sir.
Q All of your children were born in the Cherokee Nation?
A I didn't say that.
Q Which of them were born out? A One of them was born in Kansas.
Q Now, which is it? A One.
Q Which one was that that was born in Kansas? A John, John was born in '65, 12th of February, '65.
Q You were then living in Kansas? A Yes, sir.
Q Who lived near Jim Brown over there when you were living with him? A My God I could not tell you.
Q Do you remember any of their names? A There was full blood Indians, there was a number of Indians lived around there.
Q Do you remember any of their names? A Ewnideep, Young Fawn and Jim Brown was living with his uncle.
Q You have never gone down there to see your young master or your old mistress to testify for you? A No, sir, I would not give anything for an Indian to testify for me.
Q You would not let one testify for you? A No, sir, unless I was acquainted with him.
Q You were well acquainted with Nancy Seabolt? A Yes, sir, we was children together.
Q You would not let her testify? A No, sir, I would be afraid you would be going around and talking to her.
Q How long did you go by the name of Will Thomas? A I never did go by the name of Will Thomas.

Q Did you ever go by the name of Bill Thomas? A No, sir.
Q Did you ever go by any other name other than Charley Brown?
A Yes, sir.
Q What name did you go by? A Bill Thompson.
Q Where were you living when you went by the name of Bill Thompson? A I was living up there.
Q What country? A Fort Scott.
Q How long did you go by the name of Bill Thompson at Fort Scott, Kansas? A I went by the name, that and I go by the name of it yet, lots of them calls me Bill Thompson.
Q How long did you go up there by the name of Bill Thompson?
A As long as I stayed there.
Q How long did you stay there? A Until I come back.
Q How long was it until you came back? A Along in the fall of '61.
Q When did you go there? A In '61.
Q And come back in '61? A Yes, sir.
Q How did it happen that you went by the name of Bill Thompson?
A They give me the nickname.
Q Who nicknamed you? A I don't know who it was, but I was down here to Gibson and they give me another name down there.
Q Did you have the name of Bill Thompson when you were working for Bill Scott in Arkansas? A No, sir.
Q What name did you go by there? A Charley Brown.
Q What name did they give you at Fort Gibson? A Charley Brown.
Q That wasn't a nickname? A Charley Brown is my right name.
Q You have just gone by the two names? A Yes, sir, and sometimes they call me Brock.
Q How did they happen to call you Brock? A They just got to devilling me.
Q How long did you stay about Gibson? A I stayed there until '65.
Q Near whom were you living? A I was in the Government service, scouting.
Q How long were you a scout for the Government? A About four months.
Q Who lived at Fort Gibson at that time? A Everybody of the soldiers.
Q What were you doing there? A I was going around with the soldiers, driving a government train, I drove three years and six months and I quit that and went with Pole Childers in the scouting gang.
Q Was Conong Vann living there at that time?
A I don't think he was.
Q Was Jim Vann living there then? A I don't know.
Q Was F. H. Nash? A Yes, Nash was there I recollect him.
Q Was Aunt Ann Brown living there then? A Yes, sir.
Q What part of town did she live? A I think she lived back of Forsel's store.
Q What time did Jim Scott come there?
A He never did come there: Jim Scott was dead then.
Q Where did he die? A He died before the war they said; said he died in '58.

L. D. DANIELS, being sworn by Commissioner T. B. Needles, testified as follows:

BY MR. SMITH:

Q State your name? A L. D. Daniels.
Q Where do you live? A Claremore.
Q How long have you lived in the Cherokee Nation? A All my life.
Q How old are you? A 58.
Q Do you know this applicant, Charles Brown, here? A Yes, sir.
Q How long have you known him? A I have been known him I got acquainted with him at Fort Scott in '65.
Q You didn't know him before the war? A No, sir.

Q Do you know where he was in 1866? A Yes, sir, I do.
Q Where? A I believe it was in December or just after Christmas I met him and his uncle in Fort Gibson.
Q Just after Christmas? A Yes, sir, in '66.
Q How long after Christmas? A It wasn't long, three or four days or such a matter.
Q Was that or was it not the first time you had seen him at Fort Scott in '63? A Yes, sir, about the first time I seen him after that I seen him about once before that, I seen him in '63 in Fort Scott and I seen him in Christmas '64 and the third time was in Fort Gibson.
Q Well was the third time you are speaking of now? A Yes, sir.
Q How many times did you see him there? A Two or three times with Steve, I will call his name; I think he was his uncle; I said some relation, I don't know whether it was his uncle, brother or who it was.
Q How long did you stay at Fort Gibson after Christmas, '66?
A I stayed there all the time until '75, until the 5th day of July, '67.
Q Do you know where Charles Brown lives now? A Yes, sir, he has been living close to Chelsea before that he lived up there in five miles of me.
Q How long since he left the place five miles from you?
A Five or six years.
Q Well, about when was it you saw him next after you saw him down there at Fort Gibson? A It was up to, I met him up here at Goose Neck.
Q When? A I am just thinking how long it has been, I don't know when just exactly, it has been 12 or 15 years, may be a little longer or not so long.
Q You don't know who he belonged to? A No, sir, I don't of my own knowledge.

BY MR. DAVENPORT:

Q You think it was sometime after Christmas and it was in '66?
A I know it.
Q Well, you lived there from '65 up until about '70?
A I lived there until 5th of July.

BY COM'R NEEDLES:

Q Of what year? A '67.

BY MR. DAVENPORT:

Q It was some time after Christmas from the time you went there until you left? A Yes, sir.
Q You don't know how long he stayed there? A No, sir.
Q Don't know where he went after you left there? A No, sir.
Q And dont' know to whom he belonged before the war?
A No, sir, only what I heard.

MOSE HARDRICK, being duly sworn by Commissioner T. B. Needles, testified as follows:

BY MR. SMITH:

Q State your name? A Mose Hardrick.
Q How old are you, Mr. Hardrick? A 71.
Q How long have you lived in the Cherokee Nation?
A Pretty nigh all my life.
Q Do you know this man, Charles Brown? A Yes, sir.
Q How long have you known him? A Well, I knowed him pretty nigh all through slavery.
Q Do you know who he belonged to? A Yes, sir; Jim Brown.
Q Was Jim Brown an Indian, Cherokee Indian? A Yes, sir.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q How far did you live from his owner, Jim Brown, during the war?
A I spect it was about between forty and fifty miles.
Q Where did you get acquainted with this man? A Down on Lees Creek, here in the Cherokee Nation.
Q Was that where his owner lived? A Yes, sir.
Q Where do you live? A I lived at Park Hill and I had to go there in the fall to get stems coal.
Q Did you go out of the Nation during the war yourself?
A Yes, sir.

Q When did you get back? A I got back in the spring of '66.
Q When did you see Brown first in the Cherokee Nation after the war, this applicant? A I guess it must have been about '67 I first seen him, it was in cold weather.
Q You got back in the spring of '66, where were you in the time of Christmas after you spring you got back? A On the place I made there.
Q Do you know how long it was after Christmas you saw this man?
A I don't know.
Q What time did you think it was in '67 when you saw him?
A I think it was as well as I can recollect about December.
Q Of '67? A Yes, sir.
Q Where was he when you saw him? A He was over on Grand River.
Q You don't know how long he had been back in the Cherokee Nation at that time? A No, sir.
Q What was he doing over on Grand River?
A He was fixing to go to a dance.
Q After that did you see him any more? A Yes, sir.
Q When did you next see him after that? A I guess it must have been a year or two years if my mind serves me right.
Q Then where did you see him? A Seen him on Panther Creek.
A In the Cherokee Nation? A Yes, sir.
Q Do you know where he is living now? A He is living with his son Charley.
Q In what part of the neighborhood or what part of the country?
A On Big Creek.
Q Do you know how long he has been living there? A No, sir, But he has been living with Charley pretty nigh ever since his wife died.
Q Do you know his wife? A Yes, sir.
Q Where did you know his wife? A I got acquainted with her down here on Panther Creek a while before she died.
Q You didn't know her before the war? A No, sir.
Q Was this man Charles Brown and she living together at that time?
A Yes, sir.
Q Have any children? A Yes, sir.
Q Do you know what their names were? A I knew pretty nigh all them.
Q What are their names? A Sam, Wash, Charley, Joe Louvina.
Q Were they keeping house there? A Yes, sir, they was up there with him at that time.
Q With him and his wife? A Yes, sir.
Q Did they keep house? A Yes sir, kept house and had a farm there.
Q Had a farm? A Yes, sir, on Panther Creek.
Q Well, do you know how long his wife has been dead?
A No, I don't.
Q Been dead a good while or short while? A Been dead a good while.
Q Several years? A Yes, sir.
Q You can't say how many? A No, sir, I would not like to say.

BY MR. DAVENPORT:

Q Now, Mose what family did he have the first time you saw him after the war? A His family I am talking about now.
Q Now, how many children you say were born at the time you saw him when he was fixing to go to the dance,
A I didn't say any of them was then born.
Q Did he have a family at that time? A I seen him I said.
Q Do you know whether he had a family at that time or not?
A Yes, sir.
Q Of what did his family consist? A I don't know.
Q Where was his family? A I don't know where they was at that time.
Q At whose house was the dance going to be given?
A Over at Lynch's house.
Q Where? A Simon Lynch.
Q That was in the fall of '67? A Yes, sir.
Q You don't know where he had been prior to that time?

A No, sir.
Q You lived near Park Hill before the war? A Yes, sir.
Q And he lived on the Arkansas line where Lees Creek runs into the Arkansas? A He lived above that.
Q He lived at the Jim Scott Mills in Arkansas when the war broke out? A I don't know about that.
Q Well, how long before the war was it since you saw this applicant? A Several years.
Q Then you don't know where he was working before the war? A With Jim Brown.
Q How do you know? A Well when we come down here before the war he was plowing below there.
Q Didn't you answer me a while ago that it was several years before the war? A This was in slavery times.
Q Well, now how many years before the war was it you had seen this applicant? A It had been several years.
Q So you don't know where he was living or to whom he belonged when the war broke out? A No, sir.

CHARLES BROWN, the applicant, recalled:

BY COM'R NEEDLES:

Q Where was these children living now, Louvina and Joseph?
A Louvina is here, Joseph is on Panther Creek.
Q Are they both living with you? A Yes, sir.
Q Both born and raised in the Cherokee Nation? A Yes, sir.

COM'R NEEDLES: Charles Brown applies for the enrollment of himself and his two children, Louvina, 20 years of age, and Joseph, 18. He cannot be identified upon any of the rolls of the Cherokee Nation the Wallace roll, and he and his children are identified upon the Wallace roll, according to the page and number of the rolls as indicated in the testimony. He avers that he was the slave of Jim Brown and makes satisfactory proof as to his residence consequently Charles Brown and his two children, Louvina and Joseph, will be listed for enrollment as Cherokee Freedmen upon a doubtful card. He will be notified at his post office address of the decision of the Commission.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof?

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 16th day of July, 1901.

(Signed) T. B. Needles,

Commissioner.

Arthur G. Croninger, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy, and that the same is a true and complete copy of the original transcript.

Arthur G. Croninger

Subscribed and sworn to before me this 6th day of December, 1901.

M P Green

Notary Public.

Supl. Order C.F.-D.#738.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 14th, 1901.

SUPPLEMENTAL ORDER in the matter of the enrollment of Washington Brown, C.F.-D.#738, as a Cherokee Freedman:

APPEARANCES:
Mr. Smith, of Counsel for Applicant;
Mr. Davenport, of Counsel for Cherokee Nation.

Com'r Needles: The testimony taken in the matter of the application of Charles Brown, D.#958, will be made part of the record in the case of Washington Brown, D.#738.

---oooOOOooo---

E. C. Rossan, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the foregoing order and the above is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this October 17th, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Charles Brown et al., as Cherokee Freedmen, consolidating the applications of

Charles Brown et al. - - - - -Cherokee Freedmen D 962
Washington Brown - - - - - - -Cherokee Freedmen D 963
Charles Brown Jr. - - - - - - -Cherokee Freedmen D 964
John H. Brown - - - - - - - - -Cherokee Freedmen D 965

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission by Charles Brown, for himself and minor children, Louvina and Joseph Brown; by Washington Brown, for himself; by Charles Brown, Jr., for himself; and by John H. Brown, for himself.

The evidence shows that the applicant, Charles Brown, was born prior to the commencement of the rebellion and that he was not the slave of a Cherokee citizen, but a free colored person residing in the Cherokee Nation at the commencement of the rebellion.

The evidence further shows that all the other applicants herein have been born since the close of the rebellion and are the descendants of and claim right to enrollment through the said Charles Brown.

None of the names of said applicants are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Charles Brown, Louvina Brown, Joseph Brown, Washington Brown, Charles Brown, Jr., and John H. Brown, as Cherokee Freedmen, should be denied under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby, Chairman.
T.B. Needles, Commissioner.
C.R. Breckinridge, Commissioner.
W.O. Stanley, Commissioner.

Muskogee, Indian Territory,

this Mar 8, 1904.

GC

Cherokee F. D-738.

Muskogee, Indian Territory, March 16, 1904.

Washington Brown,

Ruby, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the record of proceedings had in the matter of your application for the enrollment of yourself as a Cherokee Freedman, together with a copy of the Commission's decision, dated March 5, 1904, rejecting, among others, your said application.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. Breathitt

Register. Commissioner in Charge.

Enc. G-2

Cherokee P.D-952,
D-954, D-965.

Muskogee, Indian Territory, March 16, 1904.

Edgar Smith,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 8, 1904, rejecting, among others, the applications for the enrollment of Charles, Louvena, Joseph, Charles, Jr. and John H. Brown, as Cherokee Freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. Breckinridge.

Commissioner in Charge.

Register.

Enc. 0-5

COPY.

Cherokee Freedmen
D-952, D-756, D-954
& D-955.

Muskogee, Indian Territory, March 16, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Charles Brown, et al., rejecting the applications for the enrollment of Charles, Louvena, Joseph, Washington, Charles, Jr. and John H. Brown, as Cherokee Freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. Breckinridge

Commissioner in Charge.

Enc. 66.

COPY.

Cherokee M.D-952,
D-736,D-954 & D9[illegible]

Muskogee, Indian Territory, March 16, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Charles Brown, et al., including the Commission's decision, dated March 5, 1904, rejecting the applications for the enrollment of Charles, Louvena, Joseph, Washington, Charles, Jr. and John H. Brown, as Cherokee Freedmen.

Respectfully,

[illegible]

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. 6-7

DEPARTMENT OF THE INTERIOR,

Refer in reply to the following: Land. 19281/1904.

OFFICE OF INDIAN AFFAIRS,

Washington, June 18, 1904.

(Copy)

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a report from the Commission to the Five Civilized Tribes, dated March 16, 1904, forwarding the record relative to the applications of Charles Brown, et al, for enrollment as Cherokee Freedmen. Charles Brown applied for the enrollment of himself and his minor children, Louvina and Joseph Brown. Washington Brown, Charles Brown, Jr., and John M. Brown each applied for the enrollment of himself.

The record shows that Charles Brown, principal applicant, was born prior to the commencement of the war and was in the early 20's a slave of a Cherokee citizen, but that he was sold before the commencement of the war to Charles B. Scott, brother of his Cherokee owner, who took him to Van Buren, Arkansas. The other applicants are descendants of Charles Brown and derive their rights, if they have, through him. The mother of the other applicants was not a Cherokee freedman.

In view of the record, the approval of the Commissioner's decision of March 5, 1904, unfavorable to the applicants, is recommended.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

(SAW)-E

J.P.

DEPARTMENT OF THE INTERIOR,

WASHINGTON.

D.C. 21706-1904.

I.T.D. 5104-1904.
LRS.

June 23, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

March 16, 1904, you transmitted the record in the consolidated case embracing the applications of Charles Brown, et al (F.D-952, D-738, D953 & D-965), for enrollment as Cherokee freedmen, including your decision of March 5, 1904, rejecting said applications.

Reporting in the matter June 18, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock.

Secretary.

1 inclosure.

Cherokee Freedmen
D 715

Muskogee, Indian Territory, June 30, 1904.

Washington Brown,

Ruby, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting, among others, your application for enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 352, et al.

Muskogee, Indian Territory, June 16, 1904.

W. F. Hastings,
Attorney for the Cherokee nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 6, 1904, rejecting the applications for the enrollment of Charles, Joseph, Charles, Jr., Washington, and John E. Brown, and Lovenia Gerhon, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 25, 1904.

Respectfully,

Commissioner in Charge.

[illegible]
[illegible]

Muskogee, Indian Territory, June 30, 1904.

W. T. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commissioner's decision dated March 8, 1904, rejecting the applications for the enrollment of Charles, Joseph, Charles, Jr., Washington, and John E. Brown, and Lavinia Ferris, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 23, 1904.

Respectfully,

[illegible]

Cherokee Freedmen
D 968, et al.

Muskogee, Indian Territory, June 30, 1904.

Edgar Smith,
Attorney for Charles Brown, et als.
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commissioner's decision dated March 8, 1904, rejecting, among others, the applications for the enrollment of Sherlan, Joseph, Charles, Jr., and John H. Brown and Lawrence Vernon, as Cherokee Freedmen, was affirmed by the Secretary of the Interior on June 28, 1904.

Respectfully,

Commissioner in Charge.

# AFFIDAVIT.

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } ss

In the matter of the application of Washington Brown for enrollment as a Cherokee Freedman.

No. F. D. 738

Henry Pack of lawful age, being duly sworn on oath states that on the 20th day of September, A. D., 1901, he registered to Washington Brown whose postoffice is Ruby Indian Territory, a notice, a true copy of which is attached to this affidavit, and he hereto attaches the receipt of the Postmaster at Fort Gibson Indian Territory; and that on the 14th day of October, 1901, he received the return card which is hereto attached, signed by the said Washington Brown, showing that he had received said notice.

Henry Pack

Subscribed and sworn to before me on this the 4th day of October A. D. 1901.

J. O. Starr

Notary Public.

D. F. D. 738

RECEIVED
OCT 14 1901

# NOTICE!

*IN THE MATTER OF* the application of Washington Brown for enrollment as Cherokee Freedmen:

Case No. F. D. 738

To Washington Brown Ruby I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on Oct. 14th 1901 at 8 o'clock A. M. or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 20 1901

L B Bell

W. W. Hastings

J. J. Davenport

Attorneys for the Cherokee Nation.

Marriage Certificate:

To Whom It May Concern:

Know all men by these presents, Greeting:

That I J. Tucker, a liqensed minister of the Gospel, did on the 14th day of November 1892, unite and perform the bands of matrimony by and between Washington Brown and Miss Cenia Bryant, at Coodys Bluff, Indian Territory, and performed all the duties required of a minister in solemnizing said rites:

J. Tucker

Minister of the Gospel.

(seal)

Signed and acknowledged before me on this June 19th 1901.

Nowata, I.T.

I. P. Bledsoe

Notary Public

---

Department of the Interior,
Commission to the Five Civilized Tribes.
Muskogee, Ind. Ter., July 29, 1903.

I, the undersigned, a member of the Commission to the Five Civilized Tribes, do hereby certify that the above and foregoing is a true and correct copy of the original offered in evidence in the matter of the application for enrollment of Cherokee Freedmen D 738.

Commissioner.

Kendall

do

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 20 1901

Acting Chairman

Marriage Certificate.

To Whom It may Concern:

Know all men by these presents Greeting:

That I J. Lucken, a licensed minister of the Gospel, did on the 14th day of November 1892, unite and perform the bands of matrimony by and between Washington Brown and Miss Cenia Bryant, at Coodys Bluff, Indian Territory, and performed all the duties required of a minister in solemnizing said rites:

J. Lucken
Minister of the Gospel

Signed and acknowledged before me on this June 19th 1901.
Nowata, I. T.

I. P. Bledsoe
Notary Public

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date June 17, 1904

Post Office Ruby I.T.

District Coo

1. Name Washington Brown Age

Owner's name Citizenship

Year Wallace Page 103 No. 2207 District Coo

Parents:

Father Thos. Brown - living Citizenship

Mother Sarah " - dead Citizenship

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Year Page No. Dist.
4. Year Page No. Dist.
5. Year Page No. Dist.
6. Year Page No. Dist.
7. Year Page No. Dist.
8. Year Page No. Dist.
9. Year Page No. Dist.
10. Year Page No. Dist.
11. Year Page No. Dist.
12. Year Page No. Dist.

Application made by Mr. I Stenographer J. H. Rosson

X Reg.

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

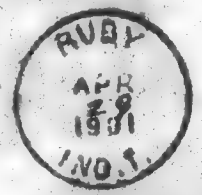
Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mr. Washington Brown,
Tuby, I. T.
Cherokee-F-D-738.
Register.






Department of the Interior.
Commission to the Five Civilized Tribes.
MUSKOGEE, IND. TER.

OFFICIAL BUSINESS.

Penalty for private use, $300.

Returned to writer

Mr. Washington Brown,

Ruby, Indian Territory.

Inclosed 1108

235B

R 66/59

Cher. Fr. R. 404

See Cher. Fr. R. 405-406

Cher. Fr. R. 404

Certificate of Residence of

E L I Z A B E T H  R E E D.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
RECEIVED
OCT 29 1901

State of Kansas }
County of Linn } ss.

I, J. A. Cady County Clerk within and for the above named County and State, do hereby certify that I have examined the Assessment rolls of Mound City Township in Linn County, Kansas, for the years 1870, 1871, 1872, 1873, 1874, 1875 and 1876 and find that the name of Betsey or Elizabeth Reed, wife of Joseph Reed appears on said rolls in the list of residents of Mound City Township in said County and State for said years.

Witness my hand and official seal at Mound City, Kansas, this 28th. day of October, A. D. 1901.

County Clerk of
Linn County, Kansas.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 26th, 1901.

In the matter of the application of Betsy Reed for the enrollment of herself and five grandchildren as Cherokee Freedmen; said Reed being duly sworn and examined by Commissioner Needles, testified as follows:

Appearances:
Hellette & Smith, Attorneys for Applicants;
Mr. Hastings, of Counsel for Cherokee Nation.

Q What is your name? A Betsy Reed.
Q How old are you? A Well, I can guess at my age, I don't know what my age is; I am somewhere along about 70.
Q What is your post office? A Nowata.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be listed as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A My children, grand children.
Q How many grand children? A There is three.
Q What are their names? A Sarah.
Q Sarah what? A Sarah Hines.
Q Well, how old is Sarah Hines? A These ain't my grand children/
Q You say you want to enroll your grand children? A Yes, sir.
Q Well, what are their names? A The oldest one is Hannah Brown.
Q How old is Hannah Brown? A 17.
Q What is the name of the next one? A Myrtle Brown.
Q How old is Myrtle? A 14.
Q The next one? A Well the older ones of them is my own children, that is a mistake I made.
Q These are your own children? A Yes, these is my own what I first spoke about.
Q Who is Hannah Brown, is she your grandchild? A Yes, sir.
Q Is Myrtle Brown your grandchild? A Yes, sir.
Q How many grand children have you got? A Five in all.
Q This is one two, what are the names of the other ones?
A Silas Harris.
Q How old is Silas Harris? A He is about, I don't know just what his age is, of course I can guess at it--18.
Q Well, what is the next grandchild? A Mamie Harris.
Q How old is Mamie? A She is about 16.
Q What is the next one? A Mima.
Q How old is she? A She is 15.
Q That is five grand children? A Yes, sir.
Q That is right? A Yes, sir.
Q Now, anybody else? A Just the five is all of my own.
Q You just want to enroll yourself and five grand children?
A Yes, sir.

MR. SMITH: How old are you? A I guess at my age; my age is about 70 as near as I can guess at it; 70 or 80.
Q Where do you live? A I live here in Cooweescoowee district near Coody's bluff on the Verdigris.
Q How long have you lived there at that place? A I don't remember now how long it has been; it has been ever since I have been here, I don't suppose I have lived at that place 20 years though.
Q Talk loud enough? A I say I suppose I have lived at that place more than 20 years, all of 20.
Q Were you a slave before the war? A Yes, sir.
Q Whom did you belong to? A Alsek McPherson.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Was he a Cherokee Indian? A Yes, sir.
Q Where did he live? A We lived down near, when the war commenced

down near what we called Dog creek, where I was living when t he war commenced.
Q Where was Dog creek? A I don't know, that is the name of it, that is all I know, that ain't far from the district I live in.
Q Was it in the Cherokee Nation? A Yes, sir.
Q Near what river? A It is in this, coowoescoowes district, what I saw, near that part.
Q What town is it near now? A I don't know whether i t is near any town except Nowata, is the nearest point I know.
Q Were you at that place when the war came up? A Yes, sir, I was living there with my parents.
Q What became of you during the war, did you stay here or go out? A I went out.
Q Where did you go? A I went to Kansas.
Q When was the first time you came back after the war?
A Well, I came back, you must remember I don't know nothing about the dates, I will tell you I come back about two years after the war.
Q Now, you say you don't know anything about dates? A No, sir. I can't count that was of course I ain't got learning to count the days; the best of my acknowledgment I can just tell what little I have got in my head and it is not much of that, because I have had so much sickness my mind is very short.
Q Do you know who you came back here with? A Yes, sir, I remember that.
Q Who did you come back with? A Man by the name of Anderson Turk and Spencer Harris.
Q Well, do you remember where you came to, what part of the country? A Yes, sir.
Q Where? A First place I stopped at was here near Coody's Bluff, wasn't anybody here then, Schrimsher was the name of the man I stopped with in the bottom, he was camping in the bottom; wasn't anybody hardly then to be seen when I come back.
Q Well, did you ever go away from the Cherokee Natio n any more after you came back that time? A After so long a time I did.
Q Where did you go to? A I went back to Kansas, on account of the work.
Q Do you know when that was? A Well, I stayed here about, you might say a month or two before I went back after I camped.
Q Well, what kind of work did you do at that time? A Wasn't any here to do at that time.
Q Well, when you worked out what did you do? A Washed for a living.
Q At the time you came back that you are speaking about, did you have any children at that time? A Yes, sir.
Q What were their names? A Agness Harris and Sarah Hines and Senia Forester and Rachel Reed, I brought back with me.
Q Are you on any of the rolls of the Cherokee Nation? A I ought to be.
Q Do you know whether you are or not? A I was with them in their enrolling on that, this last one at Nowata.
Q Did you ever draw any money? A Yes, sir.
Q What money did you draw? A Strip money and the Lipe money.
Q The Lipe money? A Yes, sir.
Q The strip money? A Yes, sir.
Q Do you remember whether you drew the Wallace money or not?
A I didn't get that, that was the fifteen dollars and the half?
Q I don't know? A I didn't get that.
Q What kin is George Tucker to you? A My son.
Q State whether or not George was with you when you came back that time? A He wasn't with me.
Q Did you know where he was? A Well, he was with his uncle.

Tribal Rolls of the Cherokee Nation in the possession of this Commission examined and names of applicants not found on any of them.

COM'R NEEDLES: Did you ever go by any other name besides Betsy Reed? A Not at that time, that was the man I was living with.

MR. HASTINGS: Who was the father of Hannah Brown? A He was a stateman man, he didn't belong here, and her father, I don't where her father is.

The Kern-Clifton roll of Cherokee Freedmen examined and names of applicant's grand children found thereon as follows:

Page 184, #4531, Hannah Brown, no district given.
Page 184, #4532, Myrtle Brown,
Page 183, #4508, Silas Harris, no district;
Page 183, #4509, Mamie Harris, no district given.
Page 183, #4510, Minnie Harris, no district given.

COM'R NEEDLES: Is the mother of Silas Harris living?

A She is dead.

Q Did you draw strip money at the same time that you drew money for the grandchildren? A Yes, sir.

MR. SMITH: Do you remember what name you applied under at the Kern Clifton Court? A Yes, sir, my name went by my owners' name.

Q Well, what was that? A I spoke about it a while ago, McPherson.

Kern-Clifton roll of Cherokee Freedmen further examined and name of applicant's found thereon, page 184, #4523, Betsy McPherson, no district given.

MR. HASTINGS: You are a pretty old woman, ain't you Auntie?

A Yes, sir, my recollection I am pretty near gone.

Q You live up near Nowata don't you? A Yes, sir.

Q About how far from Nowata, Auntie? A Three miles.

Q The Commission was out there a month wasn't it? A Yes, sir, I didn't go to town then, I tried but was feeble and wouldn't let me attend until they got away.

Q You had some children that applied, Sarah Hines? A Yes, sir.

Q When did you say you left Mound City, Kansas? A It was two years after the war.

Q What did you do the next year after the war? A Well, I stayed there and worked for a living like I have been doing, just washing for my children.

Q Where did you and Anderson Turk marry, up there? A That wasn't my husband, that was my sister's husband, he brought me down here.

Q Did you have a husband up there? A Yes, sir.

Q What was his name? A Joe Reed was his name.

Q Now, when did you and Joe Reed marry or commence living together?

A It was during the war.

Q Was he in the army? A No, sir.

Q Did you live with Anderson Turk? A No, sir, my sister did; I lived near there, we all lived near neighbors.

Q Was Anderson Turk in the family? A No, sir.

Q He was not? A No, sir.

Q You all lived near there together? A Yes, sir.

Q Well, about two years after the war you come down here did you; what time in the year was that? A I could not just tell you.

Q Spring, summer, winter or fall? A Along towards the spring, early part.

Q And that was about two years after the war closed? A Yes, sir.

Q Well, how did you come down from Mound City? A Yes, sir.

Q In a wagon? A In a wagon.

Q Who came along with you? A Anderson Turk and Spencer Harris.

Q Just them two fellows? A Yes, sir, and some small children.
Q Whose children did you have? A One was my own and the other one was my brother-in-law's.
Q Well, did they locate you all on Verdigris? A I went back when they went after staying a while.
Q Well, now, did you stay here as much as a week or three days, what is your first judgment? A As well as I can study I can't think whether it was a week or two weeks or longer.
Q Short time was it? A Yes, sir.
Q Auntie, when did you move to at that time? A I stopped at a man's, if I can think of his name.
Q White man or colored man? A Colored man, camped in the woods.
Q Near that town, Auntie? A Near this Nowata, this side of Nowata
Q How far from Grady's store? A It wasn't a great ways because the Verdigris river is on this side of there.
Q What did you get to eat down there? A Just what hunted and got.
Q You didn't see a my Cherokees? A No, sir, more Osages than anybody.
Q You never saw any colored people A No, sir.
Q And you went on back did you? A Yes, sir.
Q Now, Auntie, on this train down there you never saw any Cherokees that you remember? A No, sir.
Q And you never saw any colored people that you remember?
A Yes I did see colored people that I remember about.
Q The very time? A I can't think of the men.
Q Where did you see them? A Down there where we were camped.
Q Did you go up any of their houses? A Wasn't no houses, I saw houses but wasn't many houses to be found.
Q Well, through what town up near the line did you come through when you come down here? A Chetopa.
Q You remember Chetopa, do you? A Yes, sir, that is all I remember, wasn't any but that one.
Q About how many stores did Chetopa have at that time?
A I could not tell you, didn't many.
Q There were some stores there? A Yes, sir.
Q And town there? A Yes, sir. We didn't find enough to get us anything to eat. Tobe Scrimsher and he had a wife, her name was Eddy, they lived in the woods.
Q That is one colored man that you remember seeing? A Yes, sir; at that time.
Q They were living in the woods? A Yes, sir.
Q And then you went on back to Mound City, did you? A Yes, sir.
Q You come back here the next time at the walking payment?
A Yes, sir.
Q That is how much you made down here? A Yes, sir.
Q You didn't get on their pay roll? A No, sir, I didn't get any money.
Q Now, the time you were down up there and the walking payment you lived at Mound City? A Yes, sir. Until I came back.
Q Now, and Mr. Wallace down here making a roll when you came down here to enroll from Mound City? A They had just broke up when I got here.
Q He had just broke up his enrollment? A Yes, sir.
Q You were a little too late? A Yes, sir.
Q Now, from the time you never went back up there you never came down until you came to Vinita before Mr. Wallace and you found that he had broke up? A Yes, sir. I came to see Hunt and get me home.
Q You never came until then though? A No, sir.
Q Now, you are applying for your grandchildren, ain't you?
A Yes, sir.
Q One of them's name is Hannah? A Yes, sir.
Q What is Hannah's mother's name? A Nancy Rachel.
Q Now, where was Nancy born, up and born up there at Mound City?

A She was born up there at Mound City.
Q Now, where was Myrtle born, was she born at Mound City?
A Yes, sir.
Q Was Silas, was he born at Mound City? A Yes, sir.
Q And another one, Mina, was she born at Mound City? A Yes, sir.
Q And then there is a Minnie? A Yes, sir.
Q She was born at Mound City? A Yes, sir.
Q Now, none of these children had ever been down here until you come to enroll before the Wallace Court? A Yes, sir.
Q And that is their first trip? A Yes, sir.
Q What did you do up there, Auntie? A Just anything at all to work and make a living, washing; because I had nothing else to do, could not do anything else.
Q Where was your husband, Joe Read? A He was there, he would not come when I wanted to come.
Q He wanted to come? A No, sir.
Q Did you keep house up there? A Yes, sir, we had a home rented.
Q What become of Joe? A I left him.
Q When you come down here to the Wallace payment? A Yes, sir.
Q You left him up there did you? A Yes, sir, he would not come he said he was afraid of the Indians.
Q Did you bring these children when you come that time?
A Not the first time I come.
Q These children, did you bring them when you come to enroll at the Wallace Payment? A Yes, sir.
Q Well, now, how long did you stay here when you come to the Wallace payment? A I don't know, I expect I stayed a month.
Q And then you went back to Mound City? A Yes, sir.
Q How long did you stay there? A I stayed a good while, I went back on account of work.
Q Now, when did you come here this last time, did you come here this year? A No, I have been here a good while.
Q Well, about how long, your best judgment? A Been here over 20 years, my best judgment.
Q That has been since the Wallace payment? A Yes, sir.
Q Do you think that has been 20 years ago? A No, my judgment I come here.
Q Now, how long did you stay when you went back from the Wallace payment, how long did you stay at Mound City before you came back?
A I don't know as I stayed there two or three.
Q And then you brought these children for whom you apply down the first time did you? A I don't know whether I brought them down or not.
Q Well, when did they come down here? A The way they come, I got them to take care of them when their mother died.
Q When did their mother die? A I don't know.
Q Where did she die? A She died in Kansas.
Q Mound City? A Yes, sir.
Q Well, don't you remember how long ago it was? A They was quite small then I had and the others was good sized, Rachel was right small, she don't ever never or eight years old then and I brought them here myself one time and I raised them.
Q When did you get Ben Mother Scott? A Why I been his here.
Q When did you come to the Wallace payment? A No, that was them I gave back; I had a man that come with my brother when he come and he got shot and that was what first hurt and we down here when I come to carry him off to get him doctored.
Q Where did you see Ben Mother? A First saw him there, at Jess Brown's.
Q Was Ben Mother there? A Well, he was at this man's house I spoke of, and I kept.

Q He had a tent? A This man I spoke of.
Q You wasn't at his house? A No, sir.
Q You wasn't there? A No, sir.
Q Where did you see Harry Still? A He was there.
Q At that tent? A Yes, sir.
Q You didn't use them as witness four year ago did you, five years ago? A I don't know as I used either one of them or not, I don't know whether I did.

COMR. FEEDERS: Who was the mother of Hannah Brown and Myrtle Brown? A Same mother.
Q What was her name? A Rachel.
Q Was she your daughter? A Yes, sir.
Q Where was she born? A I think she was born in Kansas.
Q Where did she die? A She died in Kansas.
Q Where was Hannah and Myrtle born? A In Kansas.
Q Who was the mother of Silas and Mamie and Minnie Harris? A That's my daughter Aggie.
Q Where was she born? A She was born here in the Nation.
Q Was she younger? A She was the oldest daughter.
Q Born before the war? A Born here before the war.
Q Did she go out with you when you went? A Yes, sir, that was during the war.
Q Where were these children, Silas, Mamie and Minnie born? A In Kansas.
Q And their mother diedin Kansas? A Yes, sir, she came here and went back.
Q She came here with you and went back? A Yes, sir.
Q Did she have the children here with her? A Yes, sir. She came here with the intention of living.
Q Did she have these three children when she came down with you the first time? A Yes, sir.
Q As I understand then when you came back here to the Nation the first time that you had Aggie here with you? A Yes, sir.
Q And these children were with her? A No, I will withdraw that, she had these children after she growed up in Kansas.
Q She didn't have these children when she come down with you? A No, sir.
Q Wasn't born then? A No, sir.
Q And after she went back with you up there the children were born? A Yes, sir.
Q Did you have any children that come down with you except her? A Yes, sir, there was three besides her.
Q That came down with you? A Yes, sir.
Q Are they living any of them? A Yes, sir.
Q What were their names? A Calls Sarah Hines now, and called her Low, she was named Sapie.
Q And what were the other ones' names? A Rachel.
Q They come down with you? A Yes, sir.
Q They had no children at that time did they? A No, sir.
Q They went back with you? A Yes, sir.

MR. SMITH: You spoke about being at Jess Brown's and about somebody being shot, who was that? A That was my son when he came here with me.
Q Who was your son? A John Tucker.
Q When was it you met Jess Brown? A That was when I come in a wagon for the first time I come and went back.
Q Was that the second time you come? A Yes, sir.
Q How long was that after the first time you come? A I stayed about a month, not month, a year or two after I came back.
Q Have you much idea of time? A About as near as I can guess at it.
Q You said a while ago it was about 80 years since the Wallace roll? A If I did I didn't mean it.

Q Do you know how long it has been since the Kern-Clifton Court? A No, sir, I ain't got no idea how long it has been, it has been about 12 years, about as near as I can guess at it.
Q Do you know hot long it has been since this Dawes Commission was at Nowat? A Here this last time?
Q Yes? A I can't tell you that because I ain't kept no count.

SAM WEBBER being duly sworn by Commissioner Breckinridge, testified as follows:

MR. SMITH: State your name? A Sam Webber.
Q Where do you live, Mr. Webber? A Three miles west of Nowata.
Q What is your post office? A Nowata.
Q How long have you lived in that country? A Oh, about three years.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q On the 1880 roll? A Yes, sir.
Q How old are you? A About 58, somewheres near about there.
Q Do you know this applicant, Betsy Reed? A Yes, sir.
Q How long have you known her? A Ever since I could remember.
Q Did you know her before the war? A Yes, sir.
Q Was she a slave? A Yes, sir.
Q To whom did she belong? A Man by the name of Aleck McPherson.
Q Was he a Cherokee Indian? A Yes, sir.
Q Where did he live? A I have always heard he lived on Dog creek I never was at the house until here since the war.
Q What Dog creek, what point on Dog creek? A It is down here close to Claremore, in the Cherokee Nation.
Q About when did you know this woman, Betsy Reed before the war, how long before the war? A Ever since I could remember.
Q Where was she when the war came up? A She was here in the Nation when the war came up.
Q Do you know whether she was out of the Nation during the war? A Yes, sir.
Q Did you see her out? A I seen her out.
Q Where did you see her? A I seen her in Mound City, Linn County Kansas.
Q Do you know when she first returned to the Cherokee Nation after the war? A I saw her late in the fall down here on the Verdigris near Coody's Bluff in the Cherokee Nation, at old Uncle Tobe Schrimsher's.
Q In the fall of what year? A '66.
Q Who was with her? A A man by the name of Anderson Turk and Spencer Harris.
Q Who were they, colored people? A Yes, sir, they was colored men
Q Did this woman have any children? A I think she had four with her.
Q Do you know, or did you not, know what their names are? A One of them was named Aggie and one Sarah and one Senie and one Rachel, the youngest one.
Q Did you see her after that at any time? A I never saw her but that one time right then.
Q When did you next see her after that? A I saw her in '68.
Q Where? A Near the same place only across the river there on the other side of the Verdigris at her brother's.
Q At whose place? A Jess Brown's.
Q Then how long after that was it until you saw her again? A Now after that time her and got shot and she came down to see him again, but then I never saw her any more then, I saw just about the time, a short time before the Wallace Court I seen her again.
Q Do you know where she lives now? A Yes, sir.
Q How long has she been living there? A I don't know as I could tell you exactly just how long she has been living where she is living because she moved with her brother when she first came before she went on that place.

Q Where does her brother live? A Over there about Coody's Bluff on the Verdigris.
Q Do you know how long she lived with her brother? A Not exactly I don't; I seen her there, I was down there one Sunday and seen her that Sunday, and I never went down for sometime after that.
Q Do you know her daughters now, her children? A Yes, sir.
Q What are their names? A One of them is named Sarah.
Q Sarah what? A Sarah Hines she goes by now, and one Senie and I don't believe I could call the others by name, it is kinda of a curious name and I hear some of them call him Doggin and some calls him Dobin, I never tried to find out his name.
Q Who are the others? A She has got some grown children I could not name them and one young man they call Silas Harris, but I could not name the other children, I see them often too.
Q Where did you livebefore you went to the place you live now?
A Big creek, Cherokee Nation.
Q About how far from where you live now? A About 15 or 16 miles, maybe 17.
Q How long you been seeing this Betsy Reed here in the Nation since you met her there at the Wallace Court?
A I have seen her pretty much ever since, often and on, pretty much ever since that time.
Q How long had you been seing Sarah Hines? A She was here at the Wallace Court and then I never seen her any more until about, well when, about the Clifton and Kerns Court.
Q Do you know where she has been living since the Clifton and Kerns Court? A Yes, sir.
Q Where? A Nowata.
MR. HASTINGS: You saw her first in a tent? A She was there at Uncle Tobe Spencers, down where he was camped.
Q How far is it from where Coody's Bluff is now
A Mile and a half or two miles.
Q What direction? A Right down the river, south.
Q How far did you live from there at that time? A About 15 miles I guess. I lived up the creek at that time; it must have been all of that.
Q Were you examined here as a witness in this case? A No, sir.
Q How long have you been here? A I have been here since the Courts has been here only when I would go home.
Q What are you doing here? A Just looking and listening, see what I could hear.
Q You attended at Fort Gibson? A No , sir, I never went there.
Q Are you on a Committee of Freedmen here? A No, sir, I just come here to see what is going on.
Q Stayed here all this month? A Yes, sir.
Q Although you are on the roll of 1880 yourself? A Yes, sir.
Q You have testifiedin a great many Freedmen cases? A Yes, sir.
Q Did you testify for this woman before the Kern-Clifton Commission? A No, sir.
Q How long did you stay down there in the bottom at Coody's Bluff when you saw this woman? A I didn't stay long.
Q Well, about how long? A I couldn't tell you, I didn't stay there long.
Q Little while? A Yes, sir.
Q Part of one day? A Yes, sir, part of one day I guess.
Q Stayed all night there? A No, sir, I didn't stay all night.
Q You remember her children's names that was with her?
A Yes, sir.
Q Was her husband with her? A No, sir.
Q Harry still along with you? A Yes, sir, me and Harry was together.
Q You and him was side-partners? A A We got together that day.
Q Were you married at that time? A No, sir.

Q Had you moved to the Cherokee Nation at that time? A I was living on Big creek.
Q Where did you marry first? A Married up north, went up north and married and come here and brought her down here.
Q You married her in Kansas? A Yes, sir.
Q Did you marry her before you left Kansas? A No, sir, I went up there and got her, was engaged and when I got fixed moved her here.
Q What time did you marry? A Oh, sometime along short time after Christmas as near as I could remember.
Q You testified in the Abraham Ward case didn't you? A Yes, sir.
Q Number D.No7, you testified that he come down there in '66? A Yes, sir.
Q Where did you live before the war? A Double Springs.
Q How far was that from where this woman lived at McPherson's? A About five or six miles.
Q How long before the war had it been since you seen this woman? A I could not tell you that, they was at my house pretty frequently when they was going to Tahlequah.
Q Q Would they take girls folks with them when they were going to Tahlequah? A Yes, sir, lots of times.
Q Well, did they ever take her? A Yes, sir.
Q Well, now, how long before the war was it before they took her? A I could not tell you.
Q You never was at her place on Big creek? A Not before the war, I have been since the war.
Q You belong to this Freedmen Protective Association? A Yes, sir.
Q How long did that woman stay down there in the bottom at Coody's Bluff? A I don't know, I didn't stay there myself.
Q You spoke a while ago of her coming down to see her son that was shot there did she come from when she come down? A She must have come from Kansas.
Q She told you she come from Kansas? A Yes, sir.
Q Do you know how long she stayed here that time, in 1868 you so stated? A I could not tell you.
Q Di d you see her more than once? A I didn't seeher but the one time.
Q And you never saw her any more until the Wallace Court? A No, sir, just short time before.
Q Well, now, when was that? A Why when the Wallace Court was, as near as I could remember, it was just a short time before that.
Q Well, when was the Wallace Court? A I could not tell you exactly.
Q Wasn't that an important event? A Yes, sir, it was important, but I never paid any attention to the dates of it.
Q And you don't know now? A I don't remember exactly.
Q About how long ago? A Right smart while ago, but I can't just tell the regular time.
Q Well, now then, in between '66 and that time you never saw this woman? A No, sir.
Q Where did she come from when she came down there that time? A I guess she must have come from Kansas; I don't know myself I never seen her when she came.
Q Di d you see her more? A I never asked her really about it.
Q Did she go back up in Kansas after the Wallace payment? A I don't know whether she did, I never minded her any more.
Q How far did she live from you? A When I lived down the creek, I guess she was about 12 miles from me, hardly so far.
Q Would you have minded her if she would have come three years? A I might have. I was preaching then.
Q If she said she was come for to open court she is mistaken?

A I don't know; I don't remember of missing her after that.

HARRY STILL, being duly sworn by Commissioner Needles, testified as follows on part of Applicants:

MR. SMITH: State your name? A Harry Still.
Q How old are you? A 54.
Q Where do you live? A Hayden.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant, Betsy Reed? A Yes, sir.
Q How long have you known her? A I knowed Betsy Reed since the fall of '66.
Q Where did you see her? A Tobe Sohrimsher's.
Q Where was that? A On the Verdigris river.
Q What part of Verdigris river? A About the old Brown crossing, right due west of here on the Verdigris river, on t his side.
Q How far was it from Coody's Bluff? A It must have been about two and a half or three miles.
Q Was it in the Cherokee Nation? A Yes, sir.
Q Who was with her, if any one? A She has a girl by the nameof Aggie, Sarah, Senie and Rachel was wi th her at that time.
Q Have you ever seen sarah since? A Yes, sir.
Q Do you know her now? A Yes, sir.
Q What is her name now? A Sarah Hines.
Q Well, when did you next see this applicant, Betsy Reed after that time? A '68.
Q Where? A Jess Brown's.
Q Who was Jess Brown? A Her brother.
Q Whose brother? A I t hink it was her brother.
Q Well, you said her brother, who? A Said to be, here this woman right here. George got shot and she come there and got him, John rathe
Q Who was John? A John Tucker, her boy.
Q Who shot him if you know? A Shot himself.
Q Well, then when did you see herxk after that? A I never saw her until '69, let's see, '69 I believe was the next time I ever saw her.
Q How long was it after you saw her at this place please her boy was shot until you saw her again? A I never saw her any more until about the time of the Wallace made his roll, '69 I believe.
Q Until when? A Until the Wallace roll was made was the first time I saw her.
Q Have you seen her at any time since the Wallace roll was made?
A Yes, sir.
Q How many times? A Pretty near all the times I have been seeing her pretty much all the time ever since.
Q Where does she live now? A Across the Verdigris river, close to Coody's Bluff.
Q Do you know sarah Hines? A Yes, sir.
Q Where does she live? A She is staying at Nowata I think now, she used to have a place on Hogshooter.
Q How long has she been living up in that part of the country?
A I don't know just how long Sarah ha been living there, goot long time.
Q Well, has she lived there as long as three years? A Yes, sir, beat that.
Q How long? A Well, sir, I tell you I don't know just how long she has been, it has been longer than three years.
Q Do you think it is five? A Yes, sir
Q You can't state? A No, sir, because Sarah has been there a good long time.

MR HASTINGS: You think the Wallace roll was made in '69?
A I don't know the exact date but something like that.
Q That is your best judgment? A Let's see, I used to know when that Wallace roll was made, but I have lost the remembrance of it now

Q Your memory is kinda faulty? A Well, I don't know.
Q It is good on '68? A Certainly.
Q But it is not good on the Wallace roll? A Well, I knew Wallace made a roll.
Q And you think it was in 1868? A I ain't certain, '67, '69, it has been about 12 years.
Q That is to the best judgment? A Yes, sir.
Q You and Sam Wagner were together when you saw her? A No, sir, I lived on Lightning creek and Sam lived on Big S creek.
Q You didn't go with Sam over there? A No, sir.
Q I mean when you saw her in '68 is the fall you wasn't not with Sam? A No, I wish't with Sam I was by myself.
Q You are positive about that? A Yes, sir.
Q You are as good live about that as you are it was '68?
A Yes, sir.
Q Have you and Sam talked this matter over? A No, sir.
Q Never? A No, sir.
Q Now, I want you to be positive about that? A Well, I am going to be.
Q Well, who was she with over there? A She was with Tobe Sebrimar and her folks.
Q Any other men folks besides Tobe? A Yes, there was a fellow by the name of Spence, Spence, Spence, Spencer Bell, I believe, and Turk, fellow by the name of Turk.
Q How long did they stay there, how many time s did you see them there? A I seen them there once, I was going over to George, not George, Jess Brown's, that was in '68.
Q Now, when you saw them the first time? A Well, in '68 I was looking over the country down there in the bottom, me and Uncle Nelson was together.
Q Nelson who? A Nelson Right, Whitmire.
Q You and Nelse were together? A Yes, sir.
Q Is Nelse Wright dead? A I think he is.
Q Was it in the morning or evening you were there?
A About ten o'clock.
Q What were you doing there? A Just there.
Q Build them a house? A No, sir.
Q They have a field? A No, sir, Tobe didn't have anything, he was in the camp.
Q Do you know where she went from there? A No, sir, I never saw her any more until '98.
Q Where did she come from in 1868 A Don't know.
Q Never heard? A No, sir.
Q Where did she come from to the Wallace payment?
A Don't know.
Q Your memory is shaky about that? A I don't know. That is; don't know where she came from.
Q You never heard her say? A No, sir, but I know I seen her there myself and for one week after that.
Q Now [illegible] you been here at Tahlequah? A I have been here before [illegible]
Q I mean before this Court? A I came here yesterday morning.
Q Is this the first time you have been here this morning?
A No, sir, I have been here before, this morning. A Yes, sir.
Q How [illegible] I have been over here two or three times [illegible]
[illegible]
[illegible] about it? A No, sir, I didn't [illegible] the express
[illegible]
[illegible]
[illegible]

Q You never heard of it? A No, sir.
Q You testified in the Katie Thornton case? A Yes, sir.
Q You testified that she came back in 1866? A Yes, sir.
Q Did you testify in Abraham Ward's case? A No, sir.
Q You have tatifiedin 25 or 30 others? A I don't know whether it was 25 or 30 or 60, I testified in people's cases I knowed come here in side of the treaty.

MR. SMITH: You say Katie Thornton did come here in 1866?
A Yes, sir, I bought her place right on Lightning creek.

JOHN H. COODY, being duly sworn by Commissioner Needles, testified as follows on PART OF CHEROKEE NATION:

MR. HASTINGS: What is your name? A John H. Coody.
Q What is your age, Mr. Coody? A 46.
Q What is your post office? A Nowata.
Q What is your post office? A Cherokee by blood.
Q How long have you lived in the vicinity of Nowata?
A I was born there in the vicinity of Nowata, I have lived there since '68.
Q How far from Coody's Bluff? A Where I live?
Q Yes, sir? A About three miles.
Q Were you familiar with that section of country? A Yes, sir.
Q Did you have an occasion to go over it from '68 to '80?
A Yes.
Q Did you know this applicant over there, known as Betsy Reed ?
A Yes, sir.
Q When did you first know her? A It was about the first time I ever seen her somewheres about '85, as well as I can recollect.
Q Do you know where she come from or where you saw her?
A I saw her right there close to where she lives.
Q How far is that from Coody's Bluff? A It is about two miles south of me.
Q Do you know where she come from when she come there? A I was told she come from Kansas of course I don't know.
Q Were you told at the time? A Yes, sir, about the time I seen her that they said she was from Kansas.

Mr. Smith: If the Court Please, I will object to that unless it was something she said.

Q Did you ever hear her say it? A No, sir.
Q Did you ever hear any of her family say it?
A I heard her brother, George Brown.
Q Do you know what part of Kansas? A No, sir.
Q Did you ever see her before that time? A No, sir.
Q Do you know Sarah Hines? A Yes, sir.
Q When did she come down? A First time I seen her was somewhere in Ninety, about '93, '4, I saw her there about Nowata.
Q You have lived up in that neighborhood ever since '68?
A Yes, sir, born and raised there.

MR. SMITH: Mr. Coody,has Sarah Hines been living up there in that country ever since you became acquainted with her about '93 or '3, it whatever date it was? A Yes, sir.
Q Has Betsy Reed been living up there in that country ever since you became acquainted with her? A Yes, sir, to the best of my knowledge.

HENRY ARMSTRONG, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation.

MR. HASTINGS: What is your name? A Henry Armstrong.
Q What is your age? A 68.
Q What is your post office? A Coody's Bluff.
Q Mr. Armstrong, how long have you lived in the vicinity of Coody's Bluff? A Ever since '68.
Q Do you know that colored woman over there that goes by the name of Betsy Reed? A No, sir.

Q What business have you been following over there? A I have been keeping post office there and been Merchant.
Q How long have you been a merchant over there? A Since '78.
Q You never got acquainted with that woman? A No, sir.
Q Did you ever see her? A I might have seen her.
Q You don't know when she come down ? A No, sir.

Com'r Needles: Betsy Reed applies for the enrollment of herself and five grandchildren, Hannah Brown, Myrtle Brown, Silas Harrys, Mamie Harris and Mima Harris. She cannot be identified upon any of the rolls of the Cherokee Nation except the Kern-Clifton roll. She is identified upon that roll as Betsy McPherson, McPherson having been the name of her former Master. Her five children are all identified upon the Kern-Clifton roll and no other, all according to the page and number of the roll as indicated in the testimony.

Q Are these children all alive? A Yes, sir.

She avers that all of said children are alive at this time and living in the Cherokee Nation, and that their parents are deceased. For the fact as to her citizenship reference is made to the testimony. Said Betsy Reed and her five grandchildren, as enumerated herein will be listed for enrollment as Cherokee Freedmen upon a doubtful card.

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J. O. Reeson, being first duly sworn states that as Stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Reeson

Subscribed and sworn to before me this November 13th, 1901.

Commissioner.

File with Betsy Reed, C. F. D. 1095.

Department of the Interior
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 29th 1901.

In the matter of the application of Betsy Reed, C. F D.1095.
SUPPLEMENTAL TESTIMONY.

Appearances:
W. W. Hastings for the Cherokee Nation
Mellette & Smith for the applicants.

(By Mr, Hastings)

I want to offer in evidence a certificate from J.A Cady County Clerk of Linn County, Kansas, showing that Elizabeth or Betsy Reed, wife of Joseph Reed, appears upon the Assessment rolls as a resident of Mound City Township, in the State of Kansas in the years 1870 to 1876 inclusive.

( By Mr. Smith ) If the Commission please the applicants object to the introduction of what purports to be a certificate from the Clerk of Linn County, Kansas, for the reason that the certificate is not in proper form, and for the reason that it is not such a certificate as is made admissable in testimony by any law in force in this jurisdiction, and secondly, because there is no showing that the person named in said certificate is identical with the applicant, and for the following reason that the said certificate in no way conflicts with the testimony in the case, and does not tend to prove any issue in the case, and for the further reason that the said certificate amounts to no more than an affidavit that such and such facts appear and is not a certified copy of any record which is admissable under the rules of testimony, the certificate not being the best evidence.

By Commissioner C. R. Breckinridge: The objection of counselfor applicants will be noted, and what purports to be a certificate from the County Clerk of Linn County, Kansas, given under the seal of his office as to the records of that county, will be filed with the testimony in the case for the further consideration of the Commission.

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File with Cherokee Freedmen D-1053, Betsy Reed.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 29, 1901.

In the matter of the application of Betsy Reed et al. for enrollment as Cherokee Freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:
Mellette & Smith, attorneys for the applicants.
T. M. Hastings, of counsel for Cherokee Nation.

A. R. WAYNE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A A. R. Wayne.
Q What is your age? A Yesterday I was 48 years old.
Q You mean 48? A 58 years old, I was born in '43.
Q What is your postoffice? A Mound City, Lynn County, Kansas.
Q Do you know a colored woman by the name of Betsy Reed? A I used to know such a colored lady.
Q When did you first become acquainted with her? A In the year 1862 if I mistake not.
Q Where were you living when the war closed? A I was living three miles southeast of Mound City, County of Lynn, State of Kansas.
Q Have you lived in and about Mound City ever since? A I have.
Q Well now how long did you continue to know Betsy Reed, after you became acquainted with her in '62? A Till way long up in Ninety, the year 1890, or a little later than that maybe, but along about that time.
Q Where did she live during that time? A She lived near me for four years and then she moved to Mound City, during the time I had moved my place a little nearer to Mound City, and she lived then in about two and a half miles of where I lived.
Q What was her husband's name? A Joseph Reed.
Q Was she living with Joseph Reed when you first knew her? A No, sir
Q Where did she marry him? A Married there at Mound City; no, it was west of Mound City where her residence was at that time, she was living with her brother.
Q What was her brother named? A George Brown.
Q This woman have any children? A Yes, sir.
Q What were their names? A Sarah and Sena.
Q Do you remember who Sarah married? A Well, she was married twice; she first married G. C. Green, and I declare I forget the other name, it is familiar, but I can't call it to mind now.
Q You only know two husbands? A She had two husbands.
Q Up there? A Yes, sir.
Q You don't recollect her second husband? A No, sir, I don't, but one of them was G. C. Green.
Q Well, did the other girl, Sena, marry? A Yes, sir.
Q Do you know her husband's name? A It was a Dimond.
Q Well, what are those boys' names? A One of them was named John.
Q John what? A John Tucker is what we call him, she named it her boy, and the other was George.
Q Well, where did they live? A They lived at Mound City, and around Mound City; they lived with her till they became of age, or about of age.
Q How far did you live from them during that five years? A The furthest that I lived was about four miles.
Q How long did these children live around there with their mother?
A Well sir, I can't really tell you that time they did live, they stayed around there till after she moved to Mound City, and that I

didn't see them quite so often, I understood they had bought a lot in Mound City.

Q About how long after the war was it before they moved up in town? A Well, it was '66 or '7, '67 I think.

Q When they moved up in town? A Yes, sir.

Q You saw them about town after that? A Oh yes.

Q Well how long did you see them about town? A Well it was somewhere along in the eighties, maybe as far as the year '90, along about that time.

Mr. Smith; Mr. Wayne, when did you last see George Tucker? A I can't state the exact time.

Q Where was George Tucker in March, 1866? A He was living in 1866, he was living - -

Q In March now? A Yes, sir; he was living four miles and about a quarter out west of Mound City.

Q Where was he in April? A I can't tell you where he was in April.

Q Where was he in May, 1866? A I can't tell you, I presume he was right there at the place.

Q Not what you presume, but what you know? A I can't tell you whether he was there or not, I saw him every month or so.

Q Where was this man, George Tucker, in September, 1866? A Well I saw him there at his stepfather's.

Q You saw him in September? A I can't tell you whether it was in September, it was in '66.

Q Did you see him in October, '66? A I can't tell you whether it was that month or not.

Q Did you see him in November? A I can't tell you whether it was November, I paid no attention in regard to the months.

Q Do you know where Betsy Reed and the Sarah and Sena you have been talking about were in September, '66; did you see them in September, '66? A I don't know sir whether it was September or not.

Q Did you see them in October? A I can't tell you, I saw them in '66.

Q Did you see them in November? A I can't tell you whether it was that month or not.

Q Do you know where Betsy Reed was in the month of February, '68?

A In '68, no, sir.

Q Or January, '68? A No, sir, not for certain.

Q Or March, '68? A I know her I saw her there some period of these months, but what months it was I can't tell you.

Q Can you tell me any particular time in '68 that you saw Betsy Reed? A No, sir.

Q You say that there was only about four years of the time that they lived right near you? A Yes, sir, and then they moved to Mound City.

Q Where were they living when you first knew them? A They were living when I first knew them only about three quarters of a mile from where I lived.

Q That was in '62? A Yes, sir.

Q Know what time in '62? A Well, it was in the spring, but then I can't tell you the month; it was in the spring, I know that by my father's death and some of us being there.

Q When did your father die? A '62, the 19th of January.

Q And it was about that time that you first got acquainted with these people? A Yes, along about that time.

Q Now it has been said that they lived right close by you? A No not that close, they kept moving from different places around, they were living on four different places.

Q Well, how long did they live that near to you? A Well it was a year or so, I don't know exactly the time.

Q How far were they from you when they lived at Mound City? A Part of the time while they were living in Mound City they were about two miles and a half, and I was at a different place - - at that during that year, maybe pretty near four miles and a half.

Q Were you farming? A In '68 you mean now?
Q Yes? A Yes, sir.
Q Were you farming during all the time that you lived in the country and they lived in town? A No, sir.
Q When did you go to Mound City to live? A I never went to Mound City to live.
Q You don't live there yet? A No, sir; well I did live there in '85 for a short time.
Q You didn't see very much of these people, did you; you had no occasion, you didn't go around, didn't go to their house? A Why I went to their house once or twice while they were living in Mound City.
Q Once or twice? A I can't tell you, sir.
Q You don't know whether the woman you are talking about is the same woman that is applying here for enrollment, or not? A Only by the name under which I have been informed probably that this is the ones; I don't know, no, sir.
Mr. Hastings: Well, did you see these people frequently now from the time of the war up until the time they left there in about '90?
A Yes, sir.
Q Was Mound City your trading point? A Yes, sir, I made a rule of going there every Saturday.
Q You knew them in the country before they moved to town? A Yes, sir.
Q Then you saw them in town after that? A Yes, sir.
Q Did you ever miss them from up there any considerable length of time? A I did not.

Commissioner: This will be filed in D-1093, Betsy Reed, and will also be made part of the record in D-1094 and D-1095, and George Tucker, D-1013.

NEV CAMPBELL, being duly sworn by Commissioner Needles, testified as follows:
Mr. Hastings: What is your name? A Nev Campbell.
Q What is your age? A 37.
Q What is your postoffice? A Mound City, Kansas.
Q How long has that been your postoffice? A 35 years.
Q Did you ever know a colored woman by the name of Betsy Reed?
A Yes, sir.
Q Where did you know her? A Mound City, Kansas.
Q About how long have you known her? A Well, I have been personally acquainted with her since 1889, and knew of her by reputation for a great many years before that.
Q You only knew her from that time? A Yes, personally acquainted with her and knew her by sight since '89.
Q Do you know any of her children? A Well, I know the Tucker boys.
Q What are their names? A John and George Tucker, and Sallie Green, or Mays; Sallie Green and after she married Mays and he died there.
Q Where were they living when you knew them in '89? A Living in Mound City; well these Tucker boys were not living there at that time, I believe one of them had gone away at that time, John I think.
Q You didn't know them personally prior to that? A Well no, I didn't know them personally prior to that, I know them by reputation.
Q What was Betsy Reed's husband's name? A Betsy Reed's husband's name was Joe; they started along in about '88 or '89.
Q Did you have any business for her? A Not for her, I did have for Joe, her husband; I was publishing a newspaper at that time and published his notice of divorce in the newspaper at that time, and

she leftpermanently about 1893 or '4, and the current report was that she had gone to the Nation to draw her money; her money from the Cherokee Nation.

Mr. Smith: What is your occupation? A I am an attorney.

Q Did you ever hear Betsy Reed say where she was going? A No, as I stated, it was the current report that she was coming here; I know this, that she and her daughter Sallie Green were around on the streets taking up a collection from their friends to get money to come down in about '93 or '4, I saw them on the streets and parties told me that is what they were doing.

Q As a lawyer, you ought to know better than to testify to hearsay testimony? A Strictly speaking that is true, but judging from what I have heard you ask as questions, I don't think the rule is very strictly enforced here.

Q You thought you wouldn't observe it? A Well, I took my cue from you.

Q Well, that notice for a divorce was against a non resident in the State of Kansas? A Why I suppose it was, yes, sir.

Q Well you don't publish notices where they are residents? A No, sir, if they know where they live; now if you will permit me to say, I understood she had gone down to the Nation about that time, but afterwards I know that she returned, in about a year, I think, or less; I know during the time she was in the Cherokee Nation in eighty or ninety, this publication was made.

QQQQQQQQQQ

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 12th of November, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Betsy Reed et al., as Cherokee freedmen, consolidating the applications of :

| | | |
|---|---|---|
| Betsy Reed et al | Cherokee Freedmen | D 1093 |
| Sarah Hines et al | " " | D 1094 |
| Senie Dorgan et al | " " | D 1095 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee freedmen, were made to this Commission by, Betsy Reed for herself and her minor grandchildren, Hannah and Myrtle Brown, Silas, Mamie and Nima Harris; by Sarah Hines for herself and her minor children, Jesse, Eva and Cora Green, Homer, Lawrence, Blanche, Andrew and Noah Hayes, Clinton and Clifton Hines; by Senie Dorgan for herself and her minor children, Rebecca and John Collins.

The evidence shows that Betsy Reed was the slave of one McPherson, a Cherokee citizen, at the commencement of the rebellion, and that during said rebellion she removed to the State of Kansas, and did not return to the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs Cherokee Nation et al., for the return of freedmen to the Cherokee Nation.

The evidence further shows that the respective mothers of the minor grandchildren of Betsy Reed, for whom she makes application, are dead, and prior to their death acquired no rights under the treaty between the United States of America and the Cherokee Nation of Indians, concluded July 19, 1866. It is further shown that Sarah Hines and Senie Dorgan are the adult daughters of Betsy Reed, and returned to the Cherokee Nation with their said mother, and that their said mother, failing to return to said nation within the time specified in the decree of the Court of Claims, supra, they can acquire no rights not possessed by her. The minor applicants having been born subsequent to the time specified for the return to the

Cherokee Nation of Cherokee freedmen, in the decree of the Court of Claims, ante, assumed the status of their respective ancestors, and consequently possess no rights as Cherokee freedmen.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Betsy Reed Hannah Brown, Myrtle Brown, Silas Harris, Mamie Harris, Mima Harris, Sarah Hines, Jesse Green, Eva Green, Cora Green, Homer Mayes, Laurene Mayes, Blanche Mayes, Andrew Mayes, Nona Mayes, Clinton Hines, Clifton Hines, Senie Dorgan, Rebecca Collins and John Collins, as Cherokee freedmen, should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chairman.

Commissioner.

Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,

this APR 20 1904

COPY.

Cherokee Freedmen
D-1093.

Muskogee, Indian Territory, May 4, 1904.

Betsy Reed,

Nowata, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 30, 1904, rejecting, among others, the application for the enrollment of yourself, Hannah and Myrtle Brown, Silas, Mamie and Rhea Harris as Cherokee freedmen. Your attorney, Edgar Smith, Vinita, Indian Territory, has heretofore been furnished with a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Tams Bixby.

Commissioner in Charge.

Register
Enc. D-163.

Cherokee Freedmen
D-1093 et al.

Muskogee, Indian Territory, May 4, 1904.

Edgar Smith,

Attorney for Betsy Reed et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Betsy Reed et al., rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mima Harris, Sarah Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Mayes, Clinton and Clifton Hines, Senie Dorgan, Rebecca and John Collins as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Enc. D-166.

Commissioner in Charge.

Cherokee Freedmen
D-1093 et al.

Muskogee, Indian Territory, May 4, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:-

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Betsy Reed et al., rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mina Harris, Sarah Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nena Mayes, Clinton and Clifton Hines, Senie Dorgan, Rebecca and John Collins as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Enc. D-167.

Commissioner in Charge.

Cherokee Freedmen
D-1093 et al.

Muskogee, Indian Territory, May 4, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Betsy Reed et al., including the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mima Harris, Sarah Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Mayes, Clinton and Clifton Hines, Senie Dorgan, Rebecca and John Collins as Cherokee freedmen.

Respectfully,

Commissioner in Charge.

Through the
Commissioner of Indian Affairs.

Enc. D-168.

Cherokee Freedmen
D-1093 et al.

Muskogee, Indian Territory, May 4, 1904.

Edgar Smith,
Attorney for Betsy Reed et al.,
Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Betsy Reed et al., rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mina Harris, Sarah Hines, James, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Hayes, Clinton and Clifton Hines, Sonie Dorgan, Rebecca and John Collins as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Enc. D-186.

Cherokee Freedman
D-1093 et al.

Muskogee, Indian Territory, May 4, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Betsy Reed et al., including the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mina Harris, Sarah Hines, Jessie, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Xena Hayes, Clinton and Clifton Hines, Genie Dorgan, Rebecca and John Collins as Cherokee freedmen.

Respectfully,

Commissioner in Charge.

Through the Commissioner of Indian Affairs.

Enc. D-168.

WWT

Refer in reply to the following:
Land 53089-1904.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 17, 1904.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to enclose herewith a report from the Commission to the Five Civilized Tribes, dated May 4, 1904, transmitting the record of the application for enrollment as Cherokee Freedmen of Betsy Reed for herself and five minor grandchildren, Hannah and Myrtle Brown and Silas, Annie and Nina Harris of Sarah Nixon for herself and ten minor children, Pryor, Ida, Sara, Minor, Lorena, Blanche, Andrew, Rena, Clinton and Clifton, and of Sarah Morgan for herself and two minor children, Johnson and John Sullivan.

April 8, 1904, the Commission found that the applicants were not entitled to enrollment as Cherokee freedmen.

The evidence shows that the applicants Betsy Reed and her daughters Sarah Nixon and Sarah Morgan, were the slaves of a Cherokee citizen at the commencement of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and did not return and establish a residence therein on or before February 19, 1866. The applicants Hannah and Myrtle Brown and Silas

Mamie and Mina Harris are minor grandchildren of Betsey Reed and the applicants Jesse, Eva, Cora, Homer, Lourena, Blanche, Andrew, Mona, Clinton and Clifton are the minor children of Sarah Hines, and the applicants Rebecca and John Collins are the minor children of Jamie Dargan and were all born since February 11, 1867, and have no title except through their grandmother or mother. None of the names are found on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

MMM

C

WW

J.P.

D. C. 21702-1934.

I.T.D. 21702-1934.

FEB

3 3 6

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 24, 1934.

Superintendent in Charge Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

May 4, 1934, you transmitted the record in the consolidated case involving the applications of Bobby Root et al ( Thlocco et al), for enrollment as Choctaw freedmen, including your decision of April 20, 1934, rejecting said applications.

Reporting in the matter June 17, 1934, the acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby approved.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

1 inclosure.

Cherokee Freedmen
D 1093

Muskogee, Indian Territory, June 30, 1904.

Betsy Reed,

Nowata, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting, among others, your application for the enrollment of yourself and your grandchildren, Hannah and Myrtle Brown, and Silas, Mamie and Mima Harris, as Cherokee freedman, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 1685, et al.

Muskogee, Indian Territory, June 30, 1904.

Edgar Smith,

Attorney for Betsy Reed, et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Minnie and Mima Harris, Sarah, Clinton and Clifton Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Hayes, Genie Bergan, and Rebecca and John Collins, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 1093, et al.

Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mima Harris, Sarah, Clinton and Clifton Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Mayes, Senie Dorgan, and Rebecca and John Collins, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

Cherokee freedmen
R 404

Muskogee, Indian Territory, May 28, 1906.

Ruby Reed,
Sewata, Indian Territory.

Dear Madam:

You are hereby advised that the motion filed September 7, 1905, by your attorneys for review in your Cherokee freedman enrollment case was dismissed by the Department May 2, 1906.

Respectfully,

Commissioner.

WMC

Cherokee Freedmen

R 400, et al.

Muskogee, Indian Territory, May 28, 1906

Bell, Hastings & Davenport,

Attorneys for Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the motions filed September 7, 1905, by attorneys for applicants in the Cherokee freedmen enrollment cases of Joseph Brown and others named in the Department's letter of May 2, 1906, a copy of which is enclosed herewith, were denied by the Department in said letter.

Respectfully,

LMB

Commissioner

Cherokee Freedmen

R 400 et al.

Muskogee, Indian Territory, May 28, 1906

Blue & Bulger,

Attorneys for Joseph Brown, et al.

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motions filed September 7, 1905, by you, in the Cherokee Freedmen enrollment cases of Joseph Brown, and others named in the Department's letter of May 2, 1906, a copy of which is enclosed herewith, were dismissed by the Department in said letter.

Respectfully,

LMB

Encl. R-93

Commissioner

D

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
OCT 26 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date Oct 16 1901

Post Office Muscogee I T

District Tenn Creek

1. Name [illegible] Age

Owner's name Doubtful. Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

2. Name of wife Betsy Reed Age 70

Owner name Mc Pherson Citizenship

Year M. b Page 184 No. 4573 District Net Grove

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Hannah Brown Year M. b Page 184 No. 4531 Dist. Net Grove

4. Maggie Brown Year " Page 184 No. 4532 Dist. " "

5. Lilla Harris Year " Page 183 No. 4507 Dist. " "

6. Mamie Harris Year " Page 183 No. 4508 Dist. " "

7. Minnie Harris Year " Page 183 No. 4510 Dist. " "

8. Year Page No. Dist.

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by No. 2 Stenographer J. D. Benson

Note: No 1 is the grandmother of Nos 2-3-4-5-6

No 1 on M. b Roll as Betsy Mc Pherson

No 2 on M. b Roll as Minnie Harris

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cher. Fr. R-405

Cher. Fr. R-405

See Cher. Fr. R-404

1094

DEPARTMENT OF THE INTERIOR1
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 26th, 1901.

In the matter of the application of Sarah Hines for the enrollment of herself and ten children as Cherokee Freedmen; said Hines being duly sworn and examined by Commissioner Needles, testified as follows:

APPEARANCES:-
Mellette & Smith, Attorneys for Applicants;
Mr. Davenport, of Counsel for Cherokee Nation.

Q What is your name? A Sarah Hines now.
Q What is your post office address? A Nowata.
Q How old are you? A If I counted up from the time I was born I was about 43 years old;at the time the war broke out, I was going on three years old.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A My children.
Q How many? A Ten.
Q Give me the namesof your children, beginning at the oldest?
A Jesse is the oldest.
Q How old is he? A 20.
Q The next one? A Eva, 18.
Q The next one? A Cora, 16; Homer, 14.
Q Well? A Lourena, 13.
Q Well, next one? A Blanche, 11; Andrew, 9; Nona, about eight; Clinfton, four; Clifton two.
Q Are these children all living at this time? A Yes, sir.
Q Living with you? A Yes, sir.
Q Is your name on any of the rolls of the Cherokee Nation? A It is on the Clifton roll.
Q The names of your chi ldren on the Clifton roll? A Yes, sir; Sarah Mayes on the roll.
Q Why should it be Sarah Mayes? A I was a widow at that time.
Q What is Jesse's name? A Jesse Green is his right name.
Q What is Eva's name? A Green.
Q Cora? A Green.
Q Homer? A Mayes.
Q Lourena? A Mayes.
Q Blanche? A Mayes.
Q Andrew? A Mayes.
Q Nona? A Mayes.
Q Clinton? A Hines.
Q Clifton? A Hines.
Q How many times have you been married? A Three times.
Q What was your first husband's name? A Charley Green.
Q Is he living? A Yes, sir.
Q Are you divorced from him? A Yes, sir.
Q What is your second husband's name? A Blue Mayes.
Q Is he living? A Yes, sir.
Q Dead? A Yes, sir.
Q What is your last husband's name? A Tom Hines.
Q Is he living? A Yes, sir.

Kern/clifton roll of Cherokee freedmen examined and name of applicants found thereon as follows:
Page 184, #4513, Sarah Mays, no district given.
Page 184, #4514, Jesse Mays, "
Page 184, #4514, Eva Mays, "
Page 184, #4515, Cora Mays, "
Page 184, #4517, Homer Mays, "
Page 184, #4518, Lurena Mays, "
Page 184, #4519, Andrew Mays, "

Q What is the reason Blanche's name is not on the roll? A I don't know; it just got lost off.
Q Didn't draw for Blanche? A No, sir, it was put in.
Q What was your mother's name? A Betsy Reed.
Q Is she living? A Yes, sir.
Q What is your father's name? A My father's name was Bob Foster, some called him and some called him Bob Coody.
Q Is he living? A No, sir.

MR. SMITH: Where do you live now? A Nowata.

Q How long have you lived there? A I come to Nowata somewheres about two years before this last enroll was made.
Q Which enrollment, the Clifton enrollment? A Yes, sir.
Q Have you been living there ever since? A Yes, sir.
Q Where did you come from? A I come from Mound City.
Q Mound City, Kansas? A Yes, sir.
Q Is the Betsy Reed who was just on the stand here your mother? A Yes, sir.
Q Have you any sisters and brothers? A Yes, sir.
Q What are their names? A John Tucker, George Tucker, Aggis Harris and Senie Dorgin, Rachel here, are my sisters.
Q Are they all living? A No, sir.
Q Well, I had reference to the ones that are living; well, now, which ones are dead, if any of them? A Aggie is dead and Rachel is dead.

MR. W. W. HASTINGS, of Counsel for Cherokee Nation:

Q Where were you married to Green? A Mound City.
Q Where did he die? A He ain't dead.
Q Where did you marry Mayes? A Mound City.
Q Is he living? A No, sir.
Q Where did he die? A In the Asylum.
Q Where did you marry Hines? A Down here at Nowata.
Q Where was Jesse born? A Mound City.
Q Eva? A Mound City.
Q All of those children born there? A All buttwo.
Q Which two? A Clifton and Clinton.
Q Well, all except Clinton and Clifton were born at Mound City, Kansas? A Yes, sir.
Q You came down here before this last payment? A I was here before that.
Q Did you live in Mound City, Kansas? A Yes, sir.
Q And you had seven children born in Mound City, Kansas? A Yes, sir.
Q Eight children born in Mound City, Kansas?
Q Where did Aggie die? A She died at Lacene, about three miles from Lacene, Kansas.
Q About when? A She went up there with some children, her father took her there and while she was she there taken sick and died.
Q When? A That was just a while before the payment and she went after the boys.
Q How long had she been down here when she went back? A She come down here a little while after the Wallace enrollment to live
Q Where did Rachel die? A She died in Linn County.
Q When? A I don't remember; it was sometime after the Wallace.
Q After the Wallace payment? A Yes, sir, enrollment.
Q Did you own a house up there at Mound City? A I did not, my husband did.
Q What did he do? A He was a hostler, took care of horses, traveled around.

COM'R MIDDLES: What is your present husband's name? A Tom Hines.

Q Is he a citizen? A He claims to be a citizen under a soldier is all.
Q Where does he live? A I don't know where he is; I haven't seen him for two years.

Q You are not living with him? A No, sir.
Q Where were you married to him? A At Nowata.
MR. HASTINGS: What was this sister's name that walked out of here just now? A Senie Dorgin now, she enrolled as Senie Hill.
Q How many times has she been married? A Two or three times I guess.
Q What was the name of her first husband? A Abe Collins.
Q Where did she marry him? A Mound City.
Q Who was her second husband? A Perry Hill.
Q Where did she marry him? A Here in the Nation.
Q How long before the last payment did she marry him? A I mean the enrollment in the last payment.
Q The enrollment took place in 1896? A About six months.
Q Did she come here before you did? A Yes, sir.
Q About when? A I don't know; about eight or nine months.
Q How many children had she born up there in Kansas? A Two.
Q What were their names? A Beckie and John.

COM'R NEEDLES: Sarah Hines applies for the enrollment of herself and ten children, as enumerated herein. They cannot be identified upon any of the rolls of the Cherokee Natio except the Kern-Clifton roll, upon which she and seven oldest children are identified according to the page and number of the roll as indicated in the testimony, excepting her child Blanche, who is not identified upon any roll. Her three youngest children, towit: Nono, Clinton and Clifton are not identified upon any roll, having been born as she avers after the rolls were compiled, consequently it will be necessary for her to make satisfactory proof as to the birth of said children, and also as to the birth of Blanche, whose name does not appear upon any roll. She avers that she is a child of Betsy Reed who has been listed for enrollment on Doubtful card #1093, and the testimony taken in the matter of the application of Betsy Reed will be made part of the record in the case at bar, and copy thereof filed herewith. She avers that her present husband is one Tom Hines and that she was listed for enrollment as Sarah Mayes that having been the name of her husband at the time of said enrollment. All of her children are identified upon the Kern-Clifton roll as Mays, although she avers that the eldest Jesse, Eva and Cora, are named Green, that having been the name of her first husband. The applicant and her children as enumerated herein will now be listed for enrollment as Cherokee Freedmen upon a doubtful card.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this November 6th, 1901.

Commissioner.

File with case of Sarah Hines, et al., C.F.-D.#1094.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 26th, 1901.

In the matter of the application of Betsy Reed for the enrollment of herself and five grandchildren as Cherokee Freedmen; said Reed being duly sworn and examined by Commissioner Needles, testified as follows:

Appearances:
McDaniel & Smith, Attorneys for Applicants;
Mr. Hastings, of Counsel for Cherokee Nation.

Q What is your name? A Betsy Reed.
Q How old are you? A Well, I can guess at my age, I don't know what my age is; I am somewhere along about 70.
Q What is your post office? A Moyata.
Q What district do you live in? A Coowescoowee.
Q Do you apply to be listed as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A My children, grand children.
Q How many grand children? A There is three.
Q What are their names? A Sarah.
Q Sarah what? A Sarah Hines.
Q Well, how old is Sarah Hines? A These ain't my grand children/
Q You say you want to enroll your grand children? A Yes, sir.
Q Well, what are their names? A The oldest one is Hannah Brown.
Q How old is Hannah Brown? A 17.
Q What is the name of the next one? A Myrtle Brown.
Q How old is Myrtle? A 14.
Q The next one? A Well the older ones of them is my own chi ldren, that is a mistake I made.
Q These are your own children? A Yes, these is my own what I first spoke about.
Q Who is Hannah Brown, is she your grandchild? A Yes, sir.
Q Is Myrtle Brown your grandchild? A Yes, sir.
Q How many grand children have you got? A Five in all.
Q This is one two, that are the names of the other ones?
A Silas Harris.
Q How old is Silas Harris? A He is about, I don't know just what his age is, of course I can guess at it--16.
Q Well, what is the next grandchild? A Mamie Harris.
Q How old is Mamie? A She is about 16.
Q What is the next one? A Minn.
Q How old is she? A She is 13.
Q That is five grand children? A Yes, sir.
Q That is right? A Yes, sir.
Q Now, anybody else? A Just the five is all of my own.
Q You just want to enroll yourself and five grand children?
A Yes, sir.
MR. SMITH: How old are you? A I guess at my age; my age is about 70 as near as I can guess at it; am not 80.
Q Where do you live? A I live here in Coowescoowee District near Bowly's Bluff on the Verdigris.
Q How long have you lived there at that place? A I don't remember how long it has been; it has been ever since I have been here, I don't suppose I have lived at that place 20 years though.
Q Talk loud enough! A I say I suppose I have lived at that place more than 20 years, all of 20.
Q Were you ever there before the war? A Yes, sir.
Q Whom did you belong to? A Alec Reed.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Was he a Cherokee Indian? A Yes, sir.
Q Where did he live? A He lived down near Webbers Falls when the war commenced

down near what we called Dog creek, where I was living when t he war commenced.
Q Where was Dog creek? A I don't know, that is the name of it, that is all I know, that ain't far from the district I live in.
Q Was it in the Cherokee Nation? A Yes, sir.
Q Near what river? A It is in this, coowoescoowee district, what I saw, near that part.
Q What town is it near now? A I don't know whether i t is near any town except Nowata, is the nearest point I know.
Q Were you at that place when the war came up? A Yes, sir, I was living there with my owners.
Q What became of you during the war, did you stay here or go out?
A I went out.
Q Where did you go? A I went to Kansas.
Q When was the first time you came back after the war?
A Well, I came back, you must remember I don't know nothing about the dates, I will tell you I come back about two years after the war.
Q Now, you say you don't know anything about dates? A No, sir. I can't count that was of course I ain't got learning to count the days; the best of my acknowledgment I can just tell what little I have got in my head and it is not much of that, because I have had so much sickness my mind is very short.
Q Do you know who you came back here with? A Yes, sir, I remember that.
Q Who did you come back with? A Man by the name of Anderson Turk and Spencer Harris.
Q Well, do you remember where you came to, what part of the country?
A Yes, sir.
Q Where? A First place I stopped at was here near Coody's Bluff, wasn't anybody here then, Schrimsher was the name of the man I stopped with in the bottom, he was camping in the bottom; wasn't anybody hardly then to be seen when I come back.
Q Well, did you ever go away from the Cherokee Natio n any more after you came back that time? A After so long a time I did.
Q Where did you go to? A I went back to Kansas, on account of the work.
Q Do you know when that was? A Well, I stayed here about, you might say a month or two before I went back after I camped.
Q Well, what kind of work did you do at that time? A Wasn't any here to do at that time.
Q Well, when you worked out what did you do? A Washed for a living.
Q At the time you came back that you are speaking about, did you have any children at that time? A Yes, sir.
Q What were their names? A Agness Harris and Sarah Hines and Senie Forester and Rachel Reed, I brought back with me.
Q Are you on any of the rolls of the Cherokee Nation? A I ought to be.
Q Do you know whether you are or not? A I was with them in their enrolling on that, this last one at Nowata.
Q Did you ever draw any money? A Yes, sir.
Q What money did you draw? A Strip money and the Lipe money.
Q The Lipe money? A Yes, sir.
Q The Starr money? A Yes, sir.
Q Do you remember whether you drew the Wallace money or not?
A I didn't get that; What was the fifteen dollars and the half?
Q I don't know. A I didn't get that.
Q What kin is George Tucker to you? A My son.
Q State whether or not George was with you when you came back that time? A He wasn't with me.
Q Did you know where he was? A Well, he was with his uncle.

Tribal Rolls of the Cherokee Nation in the possession of this Commission examined and names of applicants not fou nd on any of them.

COM'R NEEDLES: Did you ever go by any other name besides Betsy Reed? A Not at that time, that was the man I was living with.

MR. HASTINGS: Who was the father of Hannah Brown? A He was a statesman man, he didn't belong here, and her father, I don't where her father is.

The Kern-Clifton roll of Cherokee Freedmen examined and names of applicant's grand children found thereon as follows:

Page 184, #4531, Hannah Brown, no district given.
Page 184, #4532, Myrtle Brown, "
Page 183, #4508, Silas Harris, no district;
Page 183, #4509, Mamie Harris, no di strict given.
Page 183, #4510, Minnie Harris, no di strict given.

COM'R NEEDLES: Is the mother of Silas Harris living?

A She is dead.

Q Did you draw strip money at the same time that you drew money for the grandchildren? A Yes, sir.

MR. SMITH: Do you remember what name you applied under at the Kern Clifton Court? A Yes, sir, my name went by my owners' name.

Q Well, what was that? A I spoke about it a while ago, McPherson.

Kern-Clifton roll of Cherokee Freedmen further examined and name of applicant's found thereon, page 184, #4523, Betsy McPherson, no district given.

MR. HASTINGS: You are a pretty old woman, ain't you Auntie?

A Yes, sir, my recollection I am pretty near gone.

Q You live up near Nowata don't you? A Yes, sir.

Q About how far from Nowata, Auntie? A Three miles.

Q The Commission was out there a month wasn't it? A Yes, sir, I didn't go to town then, I tried but was feeble and ~~xxxxx~~ wouldn't let me attend until they got away.

Q You had some children that applied, Sarah Hines? A Yes, sir.

Q When did you say you left Mound City, Kansas? A It was two years after the war.

Q What did you do the next year after the war? A Well, I stayed there and worked for a living like I have been doing, just washing for my children.

Q Where did you and Anderson Turk marry, up there? A That wasn't my husband, that was my sister's husband, he brought me down here.

Q Did you have a husband up there? A Yes, sir.

Q What was his name? A Joe Reed was his name.

Q Now, when did you and Joe Reed marry or commence living together?

A It was during the war.

Q Was he in the Army? A No, sir.

Q Did you live with Anderson Turk? A No, sir, my sister did; I lived near there, we all lived near neighbors.

Q Was Anderson Turk in the family? A No, sir.

Q He was not? A No, sir.

Q You all lived near there together? A Yes, sir.

Q Well, about two years after the war you came down here did you; what time in the year was that? A I could not just tell you.

Q Spring, Summer, Winter or Fall? A Along towards the spring, early part.

Q And that was about two years aft er the war closed? A Yes, sir.

Q Well, how did you come down from Mound City? A Yes, sir.

Q In a wagon? A In a wagon.

Q Who come along with you? A Anderson Turk and Spencer Harris.

Q Just them two fellows? A Yes, sir, and some small children.
Q Whose children did you have? A One was my own and the other one was my brother-in-law's.
Q Well, did they leave you and go on back? A I went back when they went after staying a while.
Q Well, now, did you stay here as much as a week or three days, what is your best judgment? A Well as I can study I can't think whether it was a week or two weeks or longer.
Q Short time was it? A Yes, sir.
Q Auntie, where did you come to at that time? A I stopped at a man's, if I can think of his name.
Q White man or colored man? A Colored man, camped in the woods.
Q Near what town, Auntie? A Near this Nowata, this side of Nowata
Q How far from Coody's Bluff? A It wasn't a great ways because the verdigris river is on this side of there.
Q What did you get to eat down there? A Just what hunted and got.
Q You didn't see any Cherokees? A No, sir, more Osages than anybody.
Q You never saw any colored people A No, sir.
Q And you went on back did you? A Yes, sir.
Q Now, Auntie, on this trip down there you never saw any Cherokees that you remember? A No, sir.
Q And you never saw any colored people that you remember?
A Yes I did see colored people that I remember about.
Q Who were they? A I can't think of the man.
Q Where did you see them? A Down there where we were camped.
Q Did you go to any of their houses? A Wasn't no houses, I saw houses but wasn't many houses to be found.
Q Well, through what town up near the line did you come through when you came down here? A Chetopa.
Q You remember Chetopa, do you? A Yes, sir, that is all I remember, wasn't any but that one.
Q About how many stores did Chetopa have at that time?
A I could not tell you, wasn't many.
Q There were some stores there? A Yes, sir.
Q And down there? A Yes, sir. We didn't find enough to get us anything to eat. Tobe Walker and he had a wife, her name was Lucy, three of the people.
Q That is the colored man that you remember seeing? A Yes, sir; at that time.
Q They were living in the woods? A Yes, sir.
Q And then you went on back to Round City, did you? A Yes, sir.
Q You came back here the next time to the Wallace payment?
A Yes, sir.
Q That is the next trip you made down here? A Yes, sir.
Q You didn't get at that Wallace roll? A No, sir, I didn't get any money.
Q How long time you were back up there until the Wallace payment was made? A Yes, sir. Until I came back.
Q Why, was it, Wallace down here making a roll when you came down here to Chetopa from Round City? A They had just broke up their payment.
Q He had just broke up his enrollment? A Yes, sir.
Q You were a little too late? A Yes, sir.
Q And [illegible] you never went back up there you never came down until you came to enroll before Mr. Wallace and you found that he had broke up? A No, sir, I came on down that and got at home
Q [illegible] until then though? A No, sir.
Q [illegible] are applying for your grand children, what's you?
Q [illegible]
Q [illegible] there's none to recruit? A Yes, sir.
Q [illegible] Hannah's mother's name? A [illegible]
Q [illegible] Hannah born, was she [illegible]

A She was born up there at Mound City.
Q Now, where was Myrtle born; was she born at Mound City?
A Yes, sir.
Q Was Silas, was he born at Mound City? A Yes, sir.
Q And another one, Minna, was she born at Mound City? A Yes, sir.
Q And then there is a Minnie? A Yes, sir.
Q She was born at Mound City? A Yes, sir.
Q Now, none of these children had ever been down here until you come to enroll before the Wallace Court? A Yes, sir.
Q And that is their first trip? A Yes, sir.
Q What did you do up there, Auntie? A Just anything at all to work and make a living, washing; because I had nothing else to do, could not do anything else.
Q Where was your husband, Joe Reed? A He was there, he would not come when I wnted to come.
Q He wanted to come? A No, sir.
Q Did you keep house up there? A Yes, sir, we had a home rented.
Q What become of Joe? A I left him.
Q When you come down here to the Wallace payment? A Yes, sir.
Q You left him up there did you? A Yes, sir, he would not come he said he was afraid of the Indians.
Q Did you bring these children when you come that time?
A Not the first time I come.
Q These children, did you bring them when you come to enroll at the Wallace Payment? A Yes, sir.
Q Well, now, how long did you stay here when you come to the Wallace payment? A I don't know, I expect I stayed a month.
Q And then you went back to Mound City? A Yes, sir.
Q How long did you stay there? A I stayed a good while, I went back on account of work.
Q Now, when did you come here this last time, did you come here this year? A No, I have been here a good while.
Q Well, about how long, your best judgment? A Been here over 20 years, my best judgment.
Q That has been since the Wallace payment? A Yes, sir.
Q Do you think that has been 20 years ago? A No, my judgment I come here-
Q Now, how long did you stay when you went back from the Wallace payment, how long did you stay at Mound City before you came back?
A I don't know as I stayed there two or three.
Q And then you brought these children for whom you apply down the first time did you? A I don't know whether I brought them down or not.
Q Well, when did they come down here? A The way they come, I got them to take care of them when their mother died.
Q When did their mother die? A I don't know.
Q Where did she die? A She died in Kansas.
Q Mound City? A Yes, sir.
Q Well, don't you remember how long ago it was? A They was quite small them I had and the others was good sized; Rachel was right small, wasn't over seven or eight years old then and I brought them here after she died and I raised them.
Q When did you see Sam Webber first? A Why I seen him here.
Q When you come to the Wallace payment? A No, that was when I come back; I had a son that come with my brother when he come and he got shot and that was what first hurried me down here when I come to carry him off to get him doctored.
Q Where did you see Sam Webber? A First saw him then, at Jess Brown's.
Q Was Sam Webber there? A Well, he was at this man's house I spoke of, had a tent.

Q He had a tent? A This man I spoke of.
Q You wasn't at his house? A No, sir.
Q You wasn't there? A No, sir.
Q There did you see Harry Still? A He was there.
Q At that tent? A Yes, sir.
Q You didn't use them as witness four year ago did you, five years ago? A I don't know as I used either one of them or not, I don't know whether I did.

COM'R RIDDLES: Who was the mother of Hannah Brown and Myrtle Brown? A Same mother.
Q What was her name? A Rachel.
Q Was she your daughter? A Yes, sir.
Q There was she born? A I think she was born in Kansas.
Q There did she die? A She died in Kansas.
Q There was Hannah and Myrtle born? A In Kansas.
Q Who was the mother of Silas and Mamie and Minnie Harris?
A That's my daughter Aggie.
Q There was she born? A She was born here in the Nation.
Q Was she younger? A She was the oldest daughter.
Q Born before the war? A Born here before the war.
Q Did she go out with you when you went? A Yes, sir, that was during the war.
Q There were these children, Silas, Mamie and Minnie born?
A In Kansas.
Q And their mother diedin Kansas? A Yes, sir, she came here and went back.
Q She came here with you and went back? A Yes, sir.
Q Did she have the children here with her? A Yes, sir. She came here with the intention of living.
Q Did she have these three children when she came down with you the first time? A Yes, sir.
Q As I understand then when you came back here to the Nation the first time that you had Aggie here with you? A Yes, sir.
Q And these children were with her? A No, I will withdraw that, she had these children after she growed up in Kansas.
Q She didn't have these children when she come down with you?
A No, sir.
Q Wasn't born then? A No, sir.
Q And after she went back with you up there the children were born?
A Yes, sir.
Q Did you have any children that come down with you except her?
A Yes, sir, there was three besides her.
Q That came down with you? A Yes, sir.
Q Are they living any of them? A Yes, sir.
Q That were their names? A Calls Sarah Hines now, and called her Low, she was named Senie.
Q And what were the other ones' names? A Rachel.
Q They come down with you? A Yes, sir
Q They had no children at that time did they? A No, sir.
Q They went back with you? A Yes, sir.

MR. SMITH: You spoke about being at Jess Brown's and about somebody being there, who was that? A That was my son when he came here with me.
Q Who was your son? A John Tucker.
Q When was it you met Jess Brown? A That was when I come in a wagon for the first time I came and went back.
Q Was that the second time you come? A Yes, sir.
Q How long was that after the first time you came? A I stayed about a month, and south, a year or two after I came back.
Q Have you much idea of time? A About as near as I can guess at it.
Q You said a while ago it was about 20 years since the census roll? A If I did I didn't mean it.

Q Do you know how long it has been since the Kern-Clifton Court? A No, sir, I ain't got no idea how long it has been, it has been about 12 years, about as near as I can guess at it.
Q Do you know hot long it has been since this Dawes Commission was at Nowat? A Here this last time?
Q Yes? A I can't tell you that because I ain't kept no count.

SAM WEBBER being duly sworn by Commissioner Breckinridge, testified as follows:

MR. SMITH: State your name? A Sam Webber.
Q Where do you live, Mr. Webber? A Three miles west of Nowata.
Q What is your post office? A Nowata.
Q How long have you lived in that country? A Oh, about three years.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q On the 1880 roll? A Yes, sir.
Q How old are you? A About 58, somewheres near about there.
Q Do you know this applicant, Betsy Reed? A Yes, sir.
Q How long have you known her? A Ever since I could remember.
Q Did you know her before the war? A Yes, sir.
Q Was she a slave? A Yes, sir.
Q To whom did she belong? A Man by the name of Aleck McPherson.
Q Was he a Cherokee Indian? A Yes, sir.
Q Where did he live? A I have always heard he lived on Dog creek I never was at the house until here since the war.
Q What Dog creek, what point on Dog creek? A It is down here close to Claremore, in the Cherokee Nation.
Q About when did you know this woman, Betsy Reed before the war, how long before the war? A Ever since I could remember.
Q Where was she when the war came up? A She was here in the Nation when the war came up.
Q Do you know whether she was out of the Nation during the war? A Yes, sir.
Q Did you see her out? A I seen her out.
Q Where did you see her? A I seen her in Mound City, Linn County Kansas.
Q Do you know when she first returned to the Cherokee Nation after the war? A I saw her late in the fall down here on the Verdigris near Coody's Bluff in the Cherokee Nation, at old Uncle Tobe Schrimsher's.
Q In the fall of what year? A '66.
Q Who was with her? A A man by the name of Anderson Turk and Spencer Harris.
Q Who were they, colored people? A Yes, sir, they was colored men
Q Did this woman have any children? A I think she had four with her.
Q Do you know, or did you not, know what their names are? A One of them was named Aggie and one Sarah and one Sanie and one Rachel, the youngest one.
Q Did you see her after that at any time? A I never saw her but that one time right there.
Q When did you next see her after that? A I saw her in '68.
Q Where? A Near the same place only across the river there on the other side of the Verdigris at her brother's.
Q At whose place? A Jess Brown's.
Q Then how long after that was it until you saw her again? A Now after that time her son got shot and she came down to see him again, and then I never saw her any more then for just about the time a short time before the Fallens Court I seen her again.
Q Do you know where she lives now? A Yes, sir.
Q How long has she been living there? A I don't know as I could tell you exactly just how long she has been living where she is living because I lived with her brother when she first come before and went on that place.

Q Where does her brother live? A Over there about Coody's Bluff on the Verdigris.
Q Do you know how long she lived with her brother? A Not exactly I don't; I seen her there, I was down there one Sunday and seen her that Sunday, and I never went down for sometime after that.
Q Do you know her daughters now, her children? A Yes, sir.
Q What are their names? A One of them is named Sarah.
Q Sarah what? A Sarah Hines she goes by now, and one Senie and I don't believe I could call the others by name, it is kinda of a curious name and I hear some of them call him Doggin and some calls him Dobin, I never tried to find out his name.
Q Who are the others? A She has got some grown children I could not name them and one young man they call Silas Harris, but I could not name the other children, I see them often too.
Q Where did you livebefore you went to the place you live now?
A Big creek, Cherokee Nation.
Q About how far from where you live now? A About 15 or 16 miles, maybe 17.
Q How long you been seeing this Betsy Reed here in the Nation since you met her there at the Wallace Court?
A I have seen her pretty much ever since, often and on, pretty much ever since that time.
Q How long had you been seeing Sarah Hines? A She was here at the Wallace Court and then I never seen Her any more until about, well when, about the Clifton and Kerns Court.
Q Do you know where she has been living since the Clifton and Kerns Court? A Yes, sir.
Q Where? A Nowata.
MR. HASTINGS: You saw her first in a tent? A She was there at Uncle Tobe Spencers, down where he was camped.
Q How far is it from where Coody's Bluff is now
A Mile and a half or two miles.
Q What direction? A Right down the river, south.
Q How far did you live from there at that time? A About 15 miles I guess. I lived up the creek at that time; it must have been all of that.
Q Were you examined here as a witness in this case? A No, sir.
Q How long have you been here? A I have been here since the Courts has been here only when I would go home.
Q What are you doing here? A Just looking and listening, see what I could hear.
Q You attended at Fort Gibson? A No , sir, I never went there.
Q Are you on a Committee of Freedmen here? A No, sir, I just come here to see what is going on.
Q Stayed here all this month? A Yes, sir.
Q Although you are on the roll of 1880 yourself? A Yes, sir.
Q You have identified a great many Freedmen cases? A Yes, sir.
Q Did you testify for this woman before the Kern-Clifton Commission? A No, sir.
Q How long did you stay down there in the bottom at Coody's Bluff when you saw this woman? A I didn't stay long.
Q Well, about how long? A I couldn't tell you, I didn't stay there long.
Q Little while? A Yes, sir.
Q Part of one day? A Yes, sir, part of one day I guess.
Q Stayed all night there? A No, sir, I didn't stay all night.
Q You remember her children's names that was with her?
A Yes, sir.
Q Was her husband with her? A No, sir.
Q Harry still along with you? A Yes, sir, we and Harry was together.
Q You and him Bay side-partners? A We Bay together that day.
Q Were you married at that time? A No, sir.

Q Had you moved to the Cherokee Nation at that time? A I was living on Big creek.
Q Where did you marry first? A Married up north, went up north and married and come here and brought her down here.
Q You married he in Kansas? A Yes, sir.
Q Did you marry her before you left Kansas? A No, sir, I went up there and got her, was engaged and when I got fixed moved her here.
Q What time did you marry? A Oh, sometime along short time after Christmas as near as I could remember.
Q You testifiedin the Abraham Ward case didn't you? A Yes, sir.
Q Number D.807, you testified that he come down there in '66?
A Yes, sir.
Q Where did you live before the war? A Double Springs.
Q How far was that from where this woman lived at McPherson's?
A About five or six miles.
Q How long before the war had it been since you seen this woman?
A I could not tell you that, they was at my house pretty frequently when they were going to Tahlequah.
Q Q Would they take girls folks with them when they were going to Tahlequah? A Yes, sir, lots of times.
Q Well, did they ever take her? A Yes, sir.
Q well, now, how long before the war was it before they took her?
A I could not tell you.
Q You never was at her place on Big creek? A Not before the war, I have been since the war.
Q You belong to this Freedmen Protective Association? A Yes, sir.
Q How long did that woman stay down there in the bottom at Coody's Bluff? A I don't know, I didn't stay there myself.
Q You spoke a while ago of her coming down to see her son that was shot there did she come from when she come down? A She must have come from Kansas.
Q She told you she come from Kansas? A Yes, sir.
Q Do you know how long she stayed here that time, in 1868 you so stated? A I could not tell you.
Q Di d you see her more than once? A I didn't seeher but the one time.
Q And you never saw her why more until the Wallace Court?
A No, sir, just short time before.
Q Well, now, when was that? A Why when the Wallace Court was, as near as I could remember, it was just a short time before that.
Q Well, when was the wallace Court? A I could not tell you exactly.
Q Wasn't that an important event? A Yes, sir, it was important, but I never paid any attention to the dates of it.
Q And you don't know now? A I don't remember exactly.
Q About how long ago? A Right smart while ago, but I can't just tell the regular time.
Q Well, now, then, in between '68 and that time you never saw this woman? A No, sir.
Q Where did she come from when she come down there.that time?
A I guess she must have come from Kansas; I don't know myself I never seen her when she came.
Q Di dn't you ask her here? A I never asked her really about it.
Q Did she go back up in Kansas after the wallace payment?
A I don't know whether she did, I never interest her any more.
Q How far did she live from you? A When I lived down the creek, I guess she was about 12 miles from me, hardly 20 far.
Q Would you have missed her if she would have gone three years?
A I might have, I was dreaming there.
Q If she said she was gone four or three years was it mistaken?

A I don't know; I don't remember of missing her after that.

HARRY STILL, being duly sworn by Commissioner Needles, testified as follows on part of Applicants:

MR. SMITH: State your name? A Harry Still.
Q How old are you? A 54.
Q Where do you live? A Hayden.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant, Betsy Reed? A Yes, sir.
Q How long have you known her? A I knowed Betsy Reed since the fall of '66.
Q Where did you see her? A Tobe Schrimsher's.
Q Where was that? A On the Verdigris river.
Q What part of Verdigris river? A About the old Brown crossing, right due west of here on the Verdigris river, on t his side.
Q How far was it from Coody's Bluff? A It must have been about two and a half or three miles.
Q Was it in the Cherokee Nation? A Yes, sir.
Q Who was with her, if any one? A She has a girl by the nameof Aggie, Sarah, Senie and Rachel was wi th her at that time.
Q Have you ever seen Sarah since? A Yes, sir.
Q Do you know her now? A Yes, sir.
Q What is her name now? A Sarah Hines.
Q Well, when did you next see this applicant, Betsy Reed after that time? A '68.
Q Where? A Jess Brown's.
Q Who was Jess Brown? A Her brother.
Q Whose brother? A I t hink it was her brother.
Q Well, you said her brother, who? A Said to be, here this woman right here.George got shot and she come there and got him, John rathe
Q Who was John? A John Tucker, her boy.
Q Who shot him if you know? A Shot himself.
Q Well, then when did you see herwk after that? A I never saw her until '69, let's see, '69 I believe was the next time I ever saw her.
Q How long was it after you saw her at this place please her boy was shot until you saw her again? A I never saw her any more until about the time of the Wallace made his roll, '69 I believe.
Q Until when? A Until the Wallace roll was made was the first time I saw her.
Q Have you seen her at any time since the Wallace roll was made?
A Yes, sir.
Q How many times? A Pretty near all the times I have been seeing her pretty much all the time ever since.
Q Where does she live now? A Across the Verdigris river, close to Coody's Bluff.
Q Do you know Sarah Hines? A Yes, sir.
Q Where does she live? A She is staying at Nowata I think now, she used to have a place on Hogshooter.
Q How long has she been living up in that part of the country?
A I don't know just how long Sarah has been living there, good long time.
Q Well, has she lived there as long as three years? A Yes, sir, best that.
Q How long? A Well, sir, I tell you, I don't know just how long she has been, it has been longer than three years.
Q Do you think it is five? A Yes, sir.
Q You can't state? A No, sir, because Sarah has been there a good long time.

MR HASTINGS: You think the Wallace roll was made in '69?
A I don't know the exact date but something like that.
Q That is your best judgment? A Let's see, I used to know when that Wallace roll was made, but I have lost the remembrance of it now

Q Your memory is kinda faulty? A Well, I don't know.
Q It is good on '66? A Certainly.
Q But it is not good on the Wallace roll? A Well, I know Wallace made a roll.
Q And you think it was in 1869? A I ain't certain; '67, '79, it has been about 12 years.
Q That is your best judgment? A Yes, sir.
Q You and Sam Webber were together when you saw her? A No, sir, I lived on Lightning creek and Sam lived on Big creek.
Q You didn't go with Sam over there? A No, sir.
Q I mean when you saw her in '66 in the fall you wasn't not with Sam? A No, I wasn't with Sam I was by myself.
Q You are positive about that? A Yes, sir.
Q You are as positive about that as you are it was '66?
A Yes, sir.
Q Have you and Sam talked this matter over? A No, sir.
Q Never? A No, sir.
Q Now, I want you to be positive about that? A Well, I am going to be.
Q Well, who was she with over there? A She was with Tobe Schrimsher and her folks.
Q Any other men folks besides Tobe? A Yes, there was a fellow by the name of Spence, spence, Spence, Spencer Bell, I believe, and Turk, fellow by the name of Turk.
Q How long did they stay there, how many times did you see them there? A I seen them there once, I was going over to George, not George, Jess Brown's, that was in '68.
Q Now, when you saw them the first time? A Well, in '66 I was looking over the country down there in the bottom, me and Uncle Nelson was together.
Q Nelson who ? A Nelson Right, Whitmire.
Q You and Nelse were together? A Yes, sir.
Q Is Nelse Wright dead? A I think he is.
Q Was it in the morning or evening you were there?
A About ten o'clock.
Q What were you doing there? A Just there.
Q Built them a house? A No, sir.
Q They have a field? A No, sir, Tobe didn't have anything, he was in the camp.
Q Do you know where she went from there? A No, sir, I never saw her any more until '68.
Q Where did she come from in 1868 A Don't know.
Q Never heard? A No, sir.
Q Where did she come from to the Wallace payment?
A Don't know.
Q Your memory is faulty about that? A I don't know, that her; I don't know where she come from.
Q You never heard her say? A No, sir, but I know I seen her there when she for she come after John.
Q How long have you been here at Vinita? A I have been here before there was any Vinita.
Q I mean before this Court? A I come here yesterday evening,
Q Is that the first time you have been here this month?
A No, sir.
Q Have you been here before, this month? A Yes, sir.
Q How many times? A I have come over here two or three times since the Court has been going on.
Q Are you a member of the Freedmen Protective Association?
A I didn't know there was such a thing.
Q You never heard about it? A No, sir, I didn't know the negroes had such a thing.
Q You don't know anything about it? A No, sir, I don't know anything about the Freedmen Protective Association.
Q You have never heard of it? A No, sir, we haven't got anything like it on Lightning creek.

Q You never heard of it? A No, sir.
Q You testified in the Katie Thornton case? A Yes, sir.
Q You testified that she came back in 1866? A Yes, sir.
Q Did you testify in Abraham Ward's case? A No, sir.
Q You have tstifiedin 25 or 30 others? A I don't know whether it was 25 or 30 or 60, I testified in people's cases I knowed come here in side of the treaty.

MR. SMITH: You say Katie Thornton did come here in 1866?

A Yes, sir, I bought her place right on Lightning creek.

JOHN H. COODY, being duly sworn by Commissioner Needles, testified as follows on PART OF CHEROKEE NATION:

MR. HASTINGS: What is your name? A John H. Coody.
Q What is your age, Mr. Coody? A 46.
Q What is your post office? A Nowata.
Q What is your post office? A Cherokee by blood.
Q How long have you lived in the vicinity of Nowata?
A I was born there in the vicinity of Nowata, I have lived there since '68.
Q How far from Coody's Bluff? A Where I live?
Q Yes, sir? A About three miles.
Q Were you familiar with that section of country? A Yes, sir.
Q Did you have an occasion to go over it from '68 to '80?
A Yes.
Q Did you know this applicant over there, known as Betsy Reed ?
A Yes, sir.
Q When did you first know her? A It was about the first time I ever seen her somewheres about '85, as well as I can recollect.
Q Do you know where she come from or where you saw her?
A I saw her right there close to where she lives.
Q How far is that from Coody's Bluff? A It is about two miles south of me.
Q Do you know where she come from when she come there? A I was told she come from Kansas of course I don't know.
Q Were you told at the time? A Yes, sir, about the time I seen her that they said she was from Kansas.

Mr. Smith: If the Court Please, I will object to that unless it was something she said.

Q Did you ever hear her say it? A No, sir.
Q Did you ever hear any of her family say it?
A I heard her brother, George Brown.
Q Do you know what part of Kansas? A No, sir.
Q Did you ever see her before that time? A No, sir.
Q Do you know Sarah Hines? A Yes, sir.
Q When did she come down? A First time I seen her was somewhere in Ninety, about '93, '4, I saw her there about Nowata.
Q You have lived up in that neighborhood ever since '68?
A Yes, sir, born and raised there.

MR. SMITH: Mr. Coody, has Sarah Hines been living up there in that country ever since you became acquainted with her about '93 or '3, it whatever date it was? A Yes, sir.
Q Has Betsy Reed been living up there in that country ever since you became acquainted with her? A Yes, sir, to the best of my knowledge.

HENRY ARMSTRONG, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation.

MR. HASTINGS: What is your name? A Henry Armstrong.
Q What is your age? A 59.
Q What is your post office? A Coody's Bluff.
Q Mr. Armstrong, how long have you lived in the vicinity of Coody's Bluff? A Ever since '68.
Q Do you know that colored woman over there that goes by the name of Betsy Reed? A No, sir.

Q What business have you been following over there? A I have been keeping post office there and been Merchant.
Q How long have you been a merchant over there? A Since '78.
Q You never got acquainted with that woman? A No, sir.
Q Did you ever see her? A I might have seen her.
Q You don't know when she come down ? A No, sir.

Com'r Needles: Betsy Reed applies for the enrollment of herself and five grandchildren, Hannah Brown, Myrtle Brown, Silas Harrys, Mamie Harris and Mima Harris. She cannot be identified upon any of the rolls of the Che r okee Nation except the Kern-Clifton roll. She is identified upon that roll as Betsy McPherson, McPherson having been the name of her former Master. Her five children are all identified upon the Kern-Clifton roll and no other, all according to the page and number of the roll as indicated in the testimony.

Q Are these children all alive? A Yes, sir.

She avers that all of said children are alive at this time and living in the Cherokee Nation, and that their parents are deceased. For the fact as to her citizenship reference is made to the testimony. Said Betsy Reed and her five grandchildren, as enumerated herein will be listed for enrollment as Cherokee Freedmen upon a doubtful card.

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J. O. Bosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Bosson

Subscribed and sworn to before me this November 13th, 1901.

Commissioner.

File with Sarah Hines et al., C. F. D. 1094.

Department of the Interior
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 29th 1901.

In the matter of the application of Betsy Reed, C. F D.1093-
SUPPLEMENTAL TESTIMONY.

Appearances:
W. W. Hastings for the Cherokee Nation
Mellotte & Smith for the applicants.

(By Mr. Hastings) I want to offer in evidence a certificate from J.A.Cady County Clerk of Linn County, Kansas, showing that Elizabeth or Betsy Reed, wife of Joseph Reed, appears upon the assessment rolls as a resident of Mound City Township, in the State of Kansas in the years 1870 to 1876 inclusive.

( By Mr. Smith ) If the Commission please the applicants object to the introduction of what purports to be a certificate from the Clerk of Linn County, Kansas, for the reason that the certificate is not in proper form, and for the reason that it is not such a certificate as is made admissable in testimony by any law in force in this jurisdiction, and secondly, because there is no showing that the person named in said certificate is identical with the applicant, and for the following reason that the said certificate in no way conflicts with the testimony in the case, and does not tend to prove any issue in the case, and for the further reason that the said certificate amounts to no more than an affidavit that such and such facts appear and is not a certified copy of any record which is admissable under the rules of testimony, the certificate not being the best evidence.

By Commissioner C. R. Breckinridge: The objection of counsel for applicants will be noted, and what purports to be a certificate from the County Clerk of Linn County, Kansas, given under the seal of his office as to the records of that county, will be filed with the testimony in the case for the further consideration of the Commission.

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File with Cherokee Freedman D-1094, Sarah Hines et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 29, 1906.

In the matter of the application of Betsy Reed et al. for enrollment as Cherokee Freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:
Mellette & Smith, attorneys for the applicants;
W. W. Hastings, of counsel for Cherokee Nation.

A. R. WAYNE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A A. R. Wayne.

Q What is your age? A Yesterday I was 48 years old.

Q You mean 48? A 58 years old, I was born in '48.

Q What is your postoffice? A Mound City, Lynn County, Kansas.

Q Do you know a colored woman by the name of Betsy Reed? A I used to know such a colored lady.

Q When did you first become acquainted with her? A In the year 1862 if I mistake not.

Q Where were you living when the war closed? A I was living three miles southeast of Mound City, County of Lynn, State of Kansas.

Q Have you lived in and about Mound City ever since? A I have.

Q Well now how long did you continue to know Betsy Reed, after you became acquainted with her in '62? A Till way long up in Ninety, the year 1890, or a little later than that maybe, but along about that time.

Q Where did she live during that time? A She lived near me for four years and then she moved to Mound City, during the time I had moved my place a little nearer to Mound City, and she lived then in about two and a half miles of wher I lived.

Q What was her husband's name? A Joseph Reed.

Q Was she living with Joseph Reed when you first knew her? A No, sir

Q Where did she marry him? A Married there at Mound City; no, it was west of Mound City where her residence was at that time, she was living with her brother.

Q What was her brother named? A George Brown.

Q This woman have any children? A Yes, sir.

Q What were their names? A Sarah and Dena.

Q Do you remember who Sarah married? A Well, she was married twice; the first married C. C. Green, and I declare I forget the other name, it is familiar, but I can't call it to mind now.

Q You only know two husbands? A She had two husbands.

Q Up there? A Yes, sir.

Q You don't recollect her second husband? A No, sir, I don't, but one of them was C. C. Green.

Q Well, did the other girl, Dena, marry? A Yes, sir.

Q Do you know her husband's name? A It was a Duncan.

Q Well, what are these boys' names? A One of them was named John.

Q John what? A John Tucker is what we call him, she said it was her boy, and the other was George.

Q Well, where did they live? A They lived at Mound City, and around Mound City; they lived with her till they were of age, or about of age.

Q How far did you live from them during those years? A The farthest that I lived was about four miles.

Q How long did these children live around there with their mother? A Well sir, I can't really tell you what time they did live, they stayed around there till after she moved to Mound City, and then I

didn't see them quite so often. I understood they had bought a lot in Mound City.

Q About how long after the war was it before they moved up in town? A Well, it was '66 or '67, but I think--

Q When they moved up in town? A Yes, sir.

Q You saw them about town after that? A Oh yes.

Q Well how long did you see them about town? A Well it was somewhere along in the eighties, maybe as far as the year '90, along about that time.

Mr. Smith: Mr. Payne, when did you last see George Tucker? A I can't state the exact time.

Q Where was George Tucker in March, 1866? A He was living in 1866, he was living - -

Q In March now? A Yes, sir; he was living four miles and about a quarter out west of Mound City.

Q Where was he in April? A I can't tell you where he was in April.

Q Where was he in May, 1866? A I can't tell you, I presume he was right there at the place.

Q Not what you presume, but what you know? A I can't tell you whether he was there or not, I saw him every month or so.

Q Where was this man, George Tucker, in September, 1866? A Well I saw him there at his stepfather's.

Q You saw him in September? A I can't tell you whether it was in September, it was in '66.

Q Did you see him in October, '66? A I can't tell you whether it was that month or not.

Q Did you see him in November? A I can't tell you whether it was November, I paid no attention in regard to the months.

Q Do you know where Betsy Reed and the Sarah and Sam you have been talking about were in September, '66; did you see them in September, '66? A I don't know sir whether it was September or not.

Q Did you see them in October? A I can't tell you, I saw them in '66.

Q Did you see them in November? A I can't tell you whether it was that month or not.

Q Do you know where Betsy Reed was in the month of February, '68?

A In '68, no, sir.

Q Or January, '68? A No, sir, not for certain.

Q Or March, '68? A I know that I saw her there some period of these months, but what months it was I can't tell you.

Q Can you tell me any particular time in '68 that you saw Betsy Reed? A No, sir.

Q You say that there was only about four years of the time that they lived right near you? A Yes, sir, and then they moved to Mound City.

Q Where were they living when you first knew them? A They were living then I first knew them only about three quarters of a mile from where I lived.

Q That was in '68? A Yes, sir.

Q Know what time in '68? A Well, it was in the spring, but then I can't tell you the months. It was in the spring, I know that by my father's death and some of us being there.

Q When did your father die? A Yes, the 16th of January.

Q And it was about that time that you first got acquainted with these people? A Yes, along about that time.

Q How long were they, after they lived that close by you? A No not that closely, they kept moving from different places around, they were living on four different places.

Q Well, how long did they live that near to you? A Well it was a year or so, I don't know exactly the time.

Q How far were they from you when they lived at Mound City? A Part of the time while they were living in Mound City they were about two miles and a half, and I was at a different place after that during that year, maybe pretty near four miles and a half.

Q Were you farming? A In '85 you mean now?
Q Yes? A Yes, sir.
Q Were you farming during all the time that you lived in the country and they lived in town? A No, sir.
Q When did you go to Mound City to live? A I never went to Mound City to live.
Q You don't live there yet? A No, sir; I did live there in '85 for a short time.
Q You didn't see very much of these people, did you? you had no occasion, you didn't go around, didn't go to their house? A Why I went to their house once or twice while they were living in Mound City.
Q Once or twice? A I can't tell you, sir.
Q You don't know whether the woman you are talking about is the same woman that is applying here for enrollment, or not? A Only by the name under which I have been informed probably that this is the ones; I don't know, no, sir.
Mr. Hastings: Well, did you see these people frequently n w from the time of the war up until the time they left there in about '90?
A Yes, sir.
Q Was Mound City your trading point? A Yes, sir, I made a rule of going there every Saturday.
Q You knew them in the country before they moved to town? A Yes, sir.
Q Then you saw them in town after that? A Yes, sir.
Q Did you ever miss them from up there any considerable length of time? A I did not.

Commissioner: This will be filed in D-1093, Betsy Reed, and will also be made part of the record in D-1094 and D-1095, and George Tucker, D-1015.

NEV CAMPBELL, being duly sworn by Commissioner Needles, testified as follows:
Mr. Hastings: What is your name? A Nev Campbell.
Q What is your age? A 37.
Q What is your postoffice? A Mound City, Kansas.
Q How long has that been your postoffice? A 30 years.
Q Did you ever know a colored woman by the name of Betsy Reed?
A Yes, sir.
Q Where did you know her? A Mound City, Kansas.
Q About how long have you known her? A Well, I have been personally acquainted with her since 1889, and knew of her by reputation for a great many years before that.
Q You only knew her from that time? A Yes, personally acquainted with her and knew her by sight since '89.
Q Do you know any of her children? A Well, I know the Tucker boys.
Q What are their names? A John and George Tucker, and Sallie Grear, or Berry, Sallie Green and after she married she died there.
Q Where were they living when you knew them in '89? A Living in Mound City. All these Tucker boys were [illegible] there at that time, I believe one of them had gone away at that time, I think, I don't know they personally prior to that; I knew them by reputation, didn't know them personally prior to that; I knew them by reputation.
Q What was Betsy Reed's husband's name? A Betsy Reed's husband's name was Scott. They parted [illegible]
Q Did you have any business [illegible] Not any more, I did have for her, her husband? I was publishing a newspaper at that time, and was publishing his notice of divorce in the newspaper at that time, and

she leftpermanently about 1893 or '4, and the current report was that she had gone to the Nation to draw her money; her money from the Cherokee Nation.

Mr. Smith: What is your occupation? A I am an attorney.

Q Did you ever hear Betsy Reed say where she was going? A No, as I stated, it was the current report that she was coming here; I know this, that she and her daughter Sallie Green were around on the streets taking up a collection from their friends to get money to come down in about '93 or '4, I saw them on the streets and parties told me that is what they were doing.

Q As a lawyer, you ought to know better than to testify to hearsay testimony? A Strictly speaking that is true, but judging from what I have heard you ask as questions, I don't think the rule is very strictly enforced here.

Q You thought you wouldn't observe it? A Well, I took my cue from you.

Q Well, that notice for a divorce was against a non resident in the State of Kansas? A Why I suppose it was, yes, sir.

Q Well you don't publish notices where they are residents? A No, sir, if they know where they live; now if you will permit me to say, I understood she had gone down to the Nation about that time, but afterwards I know that she returned, in about a year, I think, or less; I know during the time she was in the Cherokee Nation in eighty or ninety, this publication was made.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 12th of November, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Betsy Reed et al., as Cherokee freedmen, consolidating the applications of :

| | | | |
|---|---|---|---|
| Betsy Reed et al | Cherokee Freedmen | D | 1093 |
| Sarah Hines et al | " | " | D 1094 |
| Sonie Dorgan et al | " | " | D 1095 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee freedmen, were made to this Commission by, Betsy Reed for herself and her minor grandchildren, Hannah and Myrtle Brown, Silas, Mamie and Mina Harris; by Sarah Hines for herself and her minor children, Jesse, Eva and Cora Green, Homer, Lawrena, Blanche, Andrew and Monk Hayes, Clinton and Clifton Hines; by Sonie Dorgan for herself and her minor children, Rebecca and John Collins.

The evidence shows that Betsy Reed was the slave of one McPherson, a Cherokee citizen, at the commencement of the rebellion, and that during said rebellion she removed to the State of Kansas, and did not return to the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs Cherokee Nation et al., for the return of freedmen to the Cherokee Nation.

The evidence further shows that the respective mothers of the minor grandchildren of Betsy Reed, for whom she makes application, are dead, and prior to their death acquired no rights under the treaty between the United States of America and the Cherokee Nation of Indians, concluded July 19, 1866. It is further shown that Sarah Hines and Sonie Dorgan are the adult daughters of Betsy Reed, and returned to the Cherokee Nation with their said mother, and the, their said mother, failing to return to said nation within the time specified in the decree of the Court of Claims, supra, they can acquire no rights not possessed by her. The minor applicants having been born subsequent to the time specified for the return to the

Cherokee Nation of Cherokee freedmen, in the decree of the Court of Claims, ante, assumed the status of their respective ancestors, and consequently possess no rights as Cherokee freedmen.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Betsy Reed, Hannah Brown, Myrtle Brown, Silas Harris, Mamie Harris, Mima Harris, Sarah Hines, Jesse Green, Eva Green, Cora Green, Homer Mayes, Lourene Mayes, Blanche Mayes, Andrew Mayes, Neal Mayes, Clinton Hines, Clifton Hines, Sonie Dorgan, Rebecca Collins and John Collins, as Cherokee freedmen, should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

SIGNED Tams Bixby.
Chairman.

SIGNED T. B. Needles.
Commissioner.

C. R. Breathitt.
Commissioner.

Commissioner.

Dated at Muskogee, Indian Territory,
this APR 20 1904

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

D 1901 14

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
OCT 26 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date Oct. 26, 1901.

Post Office Worcester, I.T.

District [illegible]

1. Name [illegible] Age [illegible]

Owner's name [illegible] Citizenship [illegible]

Year [illegible] No. [illegible] District [illegible]

Parents:

Father [illegible] Citizenship [illegible]

Mother [illegible] Citizenship [illegible]

2. Name of wife Sarah He (nee) Age 43

Owners name [illegible] Citizenship [illegible]

Year N. B. Page 184 No. 4513 District Nat. Green

Parents:

Father Bob Foster or Moody dead Citizenship [illegible]

Mother Betsy Reed " Citizenship [illegible]

Names of Children:

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 2 | m. | Jesse | Mayes | Year N. B. | Page 184 | No. 4514 | Dist. Nat. Green | 20 |
| 3 | m. | Ezra | " | Year | Page 184 | No. 4514 | Dist. | 18 |
| 4 | m. | Leon | " | Year | Page 184 | No. 4515 | Dist. | 16 |
| 5 | m. | Harmon | Mayes | Year | Page 184 | No. 4516 | Dist. | 14 |
| 6 | f. | Lurina | " | Year | Page 184 | No. 4511 | Dist. | 13 |
| 7 | m. | Blanche | " | Year | Page [illegible] | No. [illegible] | Dist. | 11 |
| 8 | f. | Andrew | " | Year | Page 184 | No. 4518 | Dist. | 9 |
| 9 | m. | Vera | " | Year | Page | No. | Dist. | 8 |
| 10 | f. | Lelanton | He (nee) | Year | Page | No. | Dist. | 4 |
| 11 | f. | Lelifton | " | Year | Page | No. | Dist. | 2 |

Application made by Nos Stenographer J. L. Roberts

Nos 7 - 9 - 10 - 11 Birth bonds required.

N. Ref. I 1093

No 1 on K. b. Roll as Sarah Mayes

No 2 on K. b. " as Jesse Mayes

No 3 on K. b. " as Ezra "

No 4 on K. b. " as Leon "

No 6 on K. b. " as Lurina "

No 5 on K. b. " as Harmon "

No 8 on K. b. " as Andrew "

Cherokee Freedmen
D-1094.

Muskogee, Indian Territory, May 4, 1904.

Sarah Hines,

Nowata, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, rejecting, among others, the application for the enrollment of yourself, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Mayes, Clinton and Clifton Hines as Cherokee Freedmen. Your attorney, Edgar Smith, Vinita, Indian Territory, has heretofore been furnished with a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Tams Bixby

Commissioner in Charge.

Register
Rms, D-164.

Cherokee Freedmen
D-1093 et al.

Muskogee, Indian Territory, May 4, 1904.

Edgar Smith,

Attorney for Betsy Reed et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Betsy Reed et al., rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mina Harris, Sarah Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Mona Mayes, Clinton and Clifton Hines, Senie Dorgan, Rebecca and John Collins as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Enc. D-166.

Commissioner in Charge.

Cherokee Freedmen
D-1093 et al.

Muskogee, Indian Territory, May 4, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:-

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Betsy Reed et al., rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mina Harris, Sarah Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Hayes, Clinton and Clifton Hines, Senie Dorgan, Rebecca and John Collins as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Enc. D-167.

Commissioner in Charge.

Cherokee Freedmen
D-1093 et al.

Muskogee, Indian Territory, May 4, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Betsy Reed et al., including the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Minnie and Mima Harris, Sarah Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Mayes/ Clinton and Clifton Hines, Senie Dorgan, Rebecca and John Collins as Cherokee freedmen.

Respectfully,

Commissioner in Charge.

Through the
Commissioner of Indian Affairs.

Rms, D-168,

Cherokee Freedmen
D-1006 et al.

Muskogee, Indian Territory, May 4, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:-

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 30, 1904, in the consolidated case of Betsy Reed et al., rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Elma Harris, Sarah Hines, Jesse, Ira and Cora Green, Henry, Lorenzo, Blanche, Andrew and Rena Hayes, Clinton and Clifton Hines, Dania Dorgan, Rebecca and John Collins as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Tams Bixby.

Commissioner in Charge.

Enc. D-167.

Refer in reply to the following
[illegible]

[illegible] of the Interior,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 17, 1904.

The Honorable
The Secretary of the Interior.

Sir:

I have the honor to submit herewith a report from the [illegible] in the Fort Stevenson matter, dated May 4, 1904, transmitting the record of his application for enrollment as [illegible] freedom of being sent for herself and five minor [illegible], Ronald and Myrtle Lyons and Ruby, Ruth and [illegible] Lyons, by Lyons, her husband, and her minor children [illegible], Ronald, Myrtle, Lyons, Ruby, Ruth and [illegible], and of [illegible] for herself and her minor children, Delores and [illegible].

[illegible] it does not [illegible] that the applicants [illegible] are entitled to enrollment as Cherokee freedmen.

The evidence shows that the husband, Lyons, died [illegible] [illegible] Bank, Texas, and [illegible] Lyons, were the slaves of [illegible] children of the [illegible] of the [illegible] [illegible] [illegible]

Nannie and Nina Harris are minor grandchildren of Betsey Reed and the applicants Jesse, Eva, Vera, Homer, Lourena, Elizabeth, Andrew, Rena, Clinton and Clifton are the minor children of Sarah Hines, and the applicants Rebecca and John Collins are the minor children of Jennie Dargan and were all born since February 11, 1907, and have no title except through their grandmother or mother. None of the names are found on the 1906 authenticated Cherokee roll.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

MM

WCF

J.P.

D. C. 21706-1904.

I.T.D. 2033-1904.

FHE

E R S

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 24, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

May 4, 1904, you transmitted the record in the consolidated case involving the applications of Betsy Reed et al ( FB-1903 et al), for enrollment as Cherokee freedmen, including your decision of April 30, 1904, rejecting said applications.

Reporting in the matter June 17, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

1 inclosure.

Cherokee Freedmen
R 1904

Muskogee, Indian Territory, June 30, 1904.

Sarah Hines,

Keweta, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting, among others, your application for the enrollment of yourself and your children, Jesse, Eva and Cora Green, Homer, Laurena, Pinnebe, Andrew and Nona Hayes, and Clinton and Clifton Hines, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 1093, et al.

Muskogee, Indian Territory, June 30, 1904.

Edgar Smith,

Attorney for Betsy Reed, et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mina Harris, Sarah, Clinton and Clifton Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Mayes, Genie Morgan, and Rebecca and John Collins, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 1083, et al.

Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mina Harris, Sarah, Clinton and Clifton Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Hayes, Senie Morgan, and Rebecca and John Collins, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

COPY.

Cherokee Freedman
R-405.

Muskogee, Indian Territory, February 13, 1905.

Sarah M. Hines,

Nowata, Indian Territory.

Dear Madam:

The Commission is in receipt of your letter of February 9, 1905, relative to your enrollment as a Cherokee freedman.

In reply you are advised that the Commission's decision rejecting the application for the enrollment of yourself and your minor children as Cherokee freedmen was affirmed by the Secretary of the Interior on June 24, 1904.

You are further advised that this Commission is now without authority to take any further action in the matter of your said application.

Respectfully,

(SIGNED). Tams Bixby.

Chairman.

Cherokee Freedmen
D 1094

Muskogee, Indian Territory, June 19, 1906

Sarah Mayes Hines,

Nowata, Indian Territory.

Dear Madam:

Receipt is hereby acknowledged of your letter of June 15, relative to the status of your application for enrollment as a Cherokee Freedman.

In reply you are advised that the application for your enrollment as a Cherokee freedman was refused by the Secretary of the Interior June 24, 1904; a motion for review of said case was filed with the Department by your attorneys on September 7, 1905, and said motion was dismissed by the Department on May 2, 1906.

You are further advised that the Act of Congress approved April 26, 1906 (Public No. 129), provides:

> "..... no motion to reopen or reconsider any citizenship case, in any of said tribes, shall be entertained unless filed with the Commissioner to the Five Civilized Tribes within sixty days after the date of the order or decision sought to be reconsidered except as to decisions made prior to the passage of this Act, in which cases such motion shall be made within sixty days after the passage of this Act;"

Respectfully,

L M B

Commissioner.

Cherokee
5 et al.

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sirt

You are hereby advised that the decision of the Commissioner to the five civilized Tribes, dated January 10, 1907, rejecting the application for the enrollment of James Watson, et al., as citizens by intermarriage of the Cherokee Nation was affirmed by the Department January 28, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl.HJ-100.
HJH

Commissioner.

Cher. Fr. R-406

Cher. Fr. R-406

See Cher. Fr. R-404

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 26th, 1901.

In the matter of the application of Senie Dorgan for the enrollment of herself and two children as Cherokee Freedmen; said Dorgan being sworn and examinedby Commissioner Needles, testified as follows:

Q What is your name? A Senie Dorgan.
Q How old are you? A I guess I am about 40.
Q What is your post office address? A Nowata.
Q What district do you live in? A Coweescoowee district.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to list besides yourself? A Two children.
Q What are the names of your children? A Rebecca.
Q Rebecca what? A Hill.
Q How old is Rebecca? A She is about 16 I guess.
Q What is the name of the next child? A John.
Q John what? A John Hill.
Q How old is John Hill? A He is about 13 years old.
Q Are these children born living at this time? A Yes, sir.
Q Are they living with you? A No, sir, they are working out.
Q Are they in the Cherokee Nation? A Yes, sir.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Dorgan.
Q Has he got any other name besides Dorgan? A His name is Ed.
Q Is he a citizen? A No, sir
Q State man is he? A Yes, sir.
Q Where were you married to him? A In the Territory.
Q Were you ever married before? A Yes, sir.
Q To whom? A Perry Hill.
Q where were you marri ed to Perry Hill? A Terrkory.
Q Is your name on any of the rolls of the Cherokee Nation? A Yes, sir:
Q What rolls; do you know? (No response.)
Q Did you eyer draw any money? A Yes, sir.
Q Did you draw the Kern-Clifton money, strip money? (No response.)

1880 Authenticated roll, 1896 sensus roll and Kuk Wallace roll of Cherokee Freedmen examined and names of applicants not found thereon.
Kern-Clifton roll of Cherokee Freedmen examined and names of applicants found thereon as follows:
Page 184, #4520, Senia Hill, no district given.
Page 184, #4521, Rebecca Hill, "
Page 184, #4522, John Hill1

Q Is Rebecca married? A No, sir.
Q What is your mother's name? A Her name is Betsy McPherson.
Q I thought her name was Betsy Reed? A Well, her name is Betsy Reed.
Q What was your father's name; do you recollect, or do you know?
A I don't remember my father.
MR. SMITH, of Counsel for applicants:
Q Where do you live now? A I live in near Coodys Bluff.
Q How long have you been living there? A I don't know how long.
Q Do you remember the Kern-Clifton Court, or enrollment?
A Yes, sir.
Q Well, about with reference to that about what time did you come to where you are living now? A I can't tell you.
Q Did you come before or after? A I went before.
Q Well, you can't state about whether it was a year or two years, about how long it was; give us some idea? A I don't really know.
Q Well, where did you come from; where were you living before you went down there? A I was living in the Territory.
Q Where exactly? A On the Verdigris river.

Q Well, how long before the Kern-Clifton enrollment did you come to the Territory? A I don't know.
Q Well, I don't know anything about it; you can tell us about how long it was? A It might have been six years.
Q You think it might have been as much as six years? A I don't know.
Q You don't know? A No, sir, I don't.
Q Well, can you state which came here first you or your sister, Sarah? A I came here first.
Q Do you know about how long you had been here when she came?
A No, sir, I had been here quite a little bit.
Q Where did she come from? A She come from north.
Q Well, what state, what place? A Mound City.
Q Where is Mound City, in Kansas? A Yes, sir.
Q Where did you come from? A Come from the same place.
Q You say you come here first, but you can't tell how long?
A No, sir
Q Have you lived here in the Cherokee Nation ever since you came that time? A Yes, sir.
Q Have you any brothers and sisters living, besides Sarah? A Yes, sir.
Q Who are they? A George Tucker and John Tucker.
Q Have you any sisters dead? A Yes, sir.
Q What are their names? A Named Aggie , xx calledAggie and one named Rachel.
Q Is the Sarah Hines who was just here on the stand your sister?
A Yes, sir.
Q Is the Betsy Reed who applied just before her your mother?
A Yes, sir.

MR. HASTINGS, of Counsel for Cherokee Nation:

Q How many times have you been married? A This makes twice I was married.
Q What was your first husband? A His name was Perry Hill.
Q Where were you and Perry married? A Here in the Nation.
Q What part of the Nation, at whouse house, or whose place?
A At my mother's house.
Q Where? A Close to Verdigris river.
Q Is that your first husband? A Yes, sir.
Q Sarah says yonder that you were married in Mound City, your sister; what do you say about that? A I was married in Mound City.
Q Why did you saw you was marriedhere in the Nation? A I was married here in the Nation.
Q I asked you when you married Perry Hill; why did you say that?
A Well, I never thxtought about it; I was married in Kansas.
Q You were then marriedin Kansas were you? A Yes, sir.
Q Now, where was this oldest child bron? A In Kansas.
Q Where was the next one born? A In Kansas.
Q You remember now you were in Kansas a while in your life?
A Yes, sir.
Q You don't have any idea how long you had been here when your sister came? A No, sir.
Q She says you had been about eight months is that right?
A I don't know.
Q Know how long before you drew money down here? A No, sir.
Q Well, now, how old was your oldest child when you came down here?
A I don't know.
Q Do you have any idea? A No, sir, I can't count good, I cant write.
Q Did you and your first husband separated up there? A Yes, sir.
Q Did he die? A He wasn't dead when I left.
Q You don't know what became of him? A No, sir.
Q Ever divorced from him? A No, sir.
Q You hadn't married then when the Kern-Clifton roll was made; you hadn't married the second time? A Yes, sir.
Q You married the second time there or down here? A I married down here.

Q How old are you? A I don't know; I don't really know my age; I can't count.
Q Didn't you guess at it here a while ago? A Yes, sir.
Q What did you guess then? (No response.)
Q What did your husband do up in Mound City, Kansas? A He gambled I suppose.
Q Well, you was up there when the Wallace money was paid, wasn't you? A I suppose so.
Q You know it don't you? A I don't know.
Q You were here when it was made? A Yes, I was here when the payment was made.
Q You have been here ever since? A Yes, sir.
Q You swear that do you? A Yes, sir.
Q I mean the Wallace payment, not this last payment; payment in '90 were you here then? A I was here at one payment.
Q Was that the last payment you were here to? A No, sir.
Q How many payments were you here to? A Two.
Q You didn't draw any money the first time did you? A Yes, si r, first payment.
Q Is that the one you ave reference to being here? A The first payment I was, and I was to the next payment, the last one.
Q You drew money at both of them,you were here to? A Yes, sir
Q You have only been married twice? A Yes, sir, this makes three times now; I am married now.
Q Who was your first husband? A His name was Collins.
Q Where did you marry him? A Marriedhim in Kansas.
Q Did you have any children by him? A No, sir
Q And you marriedyour second husband in Kansas, Hill? A No, sir, I marriedhim down here.
Q Now, I want to get at it; did you marry Hill here, or did you marry him in Kansas? A I married hi m here.
Q Are these children Hill that you give here or not?
A No, sir.

COM'R NEEDLES: What is Rebecca's name? A Her name is Collins
Q What is John's name? A John Collins.

MR. HASTINGS: Is this man Hi ll alive? A Yes, sir.

Q Did you get a divorce from him? A Wasn't married by license; married by the Cherokee laws.
Q I say were you ever divorced from him? A Yes, sir.
Q What Court? A Didn't have any Court.
Q Where were you married to Dorgan? A Married him here in the Nation.

MR. SMITH: How much did you draw the first time? A I don't remember.
Q Can't you remember? A No, sir.
Q Do you know how much you drew the second time? A No, sir.
Q Which was the most you drew the first or second times?
A I could not tell you, didn't get very much at either.
Q Can't you remember where you first drew your money? A At Lightning.
Q Who paid it out? A His name was Dickson .
Q That was the first money you drew ? A Yes, sir.
Q Now, who paid out the second money? A I think Lipe.
Q Now, are these the two payments you are talking about? A Yes, sir.

COM'R NEEDLES; Senie Dorgan applies for the enrollment of herself and two children, Rebecca Collins and John Collins. They cannot be identified upon any of the rolls of the Cherokee Nation except the Kern-Clifton roll. They are identified on there by the name of Hi,ll. She says at that time that her married name was Hill. The children are enrolled by Hill from the fact that that was the stepfather's

name at that time. She avers that she is a daughter of Betsy Reed who was listed for enrollment on doubtful card #1093, and the testimony taken in the matter of the enrollment of Betsy Reed will be made part of the record in the case at bar. Said Senie Dorgan and two children enumerated herein will be listed for enrollment as Cherokee Freedmen upon a doubtful card.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this November 6th, 1901.

Commissioner.

File with case of Senie Dorgan, et al., C.F.-D.#1095.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 26th, 1901.

In the matter of the application of Betsy Reed for the enrollment of herself and five grandchildren as Cherokee Freedmen; said Reed being duly sworn and examined by Commissioner Needles, testified as follows:

Appearances:
Mellette & Smith, Attorneys for Applicants;
Mr. Hastings, of Counsel for Cherokee Nation.

Q What is your name? A Betsy Reed.
Q How old are you? A Well, I can guess at my age, I don't know what my age is; I am somewhere along about 70.
Q What is your post office? A Nowata.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be listed as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A My children, grand children.
Q How many grand children? A There is three.
Q What are their names? A Sarah.
Q Sarah what? A Sarah Hines.
Q Well, how old is Sarah Hines? A These ain't my grand children/
Q You say you want to enroll your grand children? A Yes, sir.
Q Well, what are their names? A The oldest one is Hannah Brown.
Q How old is Hannah Brown? A 17.
Q What is the name of the next one? A Myrtle Brown.
Q How old is Myrtle? A 14.
Q The next one? A Well the older ones of them is my own chi ldren, that is a mistake I made.
Q These are your own children? A Yes, these is my own what I first spoke about.
Q Who is Hannah Brown, i s she your grandchild? A Yes, sir.
Q Is Myrtle Brown your grandchild? A Yes, sir.
Q How many grand children have you got? A Five in all.
Q This is one two, what are the names of the other ones?
A Silas Harris.
Q How old is Silas Harris? A He is about, I don't know just what his age is, of course I can guess at it--18.
Q Well, what is the next grandchild? A Mamie Harris.
Q How old is Mamie? A She is about 16.
Q What is the next one? A Mima.
Q How old is she? A She is 13.
Q That is five grand children? A Yes, sir.
Q That is right? A Yes, sir.
Q Now, anybody else? A Just the five is all of my own.
Q You just want to enroll yourself and five grand children?
A Yes, sir.

MR. SMITH: How o ld are you? A I guess at my age; my age is about 70 as near as I can guess at it; 70 or 80.
Q Where do you live? A I live here in Cooweescoowee district near Coody's bluff on the Verdigris.
Q How long have you lived there at that place? A I don't remember now how long it has been; it has been ever since I have been here, I don't suppose I have lived at that place 20 years though.
Q Talk loud enough? A I saw I suppose I have lived at that place more than 20 years, all of 20.
Q Were y ou a slave before the war? A Yes, sir.
Q Whom did you belong to? A Aleck McPherson.
Q Was he a citizen of the Cherokee Nation? A Yes, sir.
Q Was he a Cherokee Indian? A Yes, sir.
Q Where did he live? A We lived down near, when the war commenced

down near what we called Dog creek, where I was living when t he war commenced.
Q Where was Dog creek? A I don't know, that is the name of it, that is all I know, that ain't far from the district I live in.
Q Was it in the Cherokee Nation? A Yes, sir.
Q Near what river? A It is in this, Coowescoowee district, what I saw, near that part.
Q What town is it near now? A I don't know whether i t is near any town except Nowata, is the nearest point I know.
Q Were you at that place when the war came up? A Yes, sir, I was living there with my owners.
Q What became of you during the war, did you stay here or go out?
A I went out.
Q Where did you go? A I went to Kansas.
Q When was the first time you came back after the war?
A Well, I came back, you must remember I don't know nothing about the dates, I will tell you I come back about two years after the war.
Q Now, you say you don't know anything about dates? A No, sir. I can't count that was of course I ain't got learning to count the days; the best of my acknowledgment I can just tell what little I have got in my head and it is not much of that, because I have had so much sickness my mind is very short.
Q Do you know who you came back here with? A Yes, sir, I remember that.
Q Who did you come back with? A Man by the name of Anderson Turk and Spencer Harris.
Q Well, do you remember where you came to, what part of the country?
A Yes, sir.
Q Where? A First place I stopped at was here near Coody's Bluff, wasn't anybody here then, Schrimsher was the name of the man I stopped with in the bottom, he was camping in the bottom; wasn't anybody hardly then to be seen when I come back.
Q Well, did you ever go away from the Cherokee Natio n any more after you came back that time? A After so long a time I did.
Q Where did you go to? A I went back to Kansas, on account of the work.
Q Do you know when that was? A Well, I stayed here about, you might say a month or two before I went back after I camped.
Q Well, what kind of work did you do at that time? A Wasn't any here to do at that time.
Q Well, when you worked out what did you do? A Washed for a living.
Q At the time you came back that you are speaking about, did you have any children at that time? A Yes, sir.
Q What were their names? A Agnes Harris and Sarah Hines and Sonia Forester and Rachel Reed, I brought back with me.
Q Are you on any of the rolls of the Cherokee Nation? A I ought to be.
Q Do you know whether you are or not? A I was with them in their enrolling on that, that last one at Nowata.
Q Did you ever draw any money? A Yes, sir.
Q What money did you draw? A Strip money and the Lipe money.
Q The Lipe money? A Yes, sir.
Q The Strip money? A Yes, sir.
Q Do you remember whether you drew the Wallace money or not?
Q Do you remember whether you drew the Wallace money or not?
A I didn't get that, that was the fifteen dollars and the half?
Q I don't know? A I didn't get that.
Q What kin to George Tucker to you? A My son.
Q State whether or not George was with you when you came back that time? A He wasn't with me.
Q Did you know where he was? A Well, he was with his uncle.

Tribal Rolls of the Cherokee Nation in the possession of this Commission examined and names of applicants not fou nd on any of them.

COM'R NEEDLES: Did you ever go by any other name besides Betsy Reed? A Not at that time, that was the man I was living with.

MR. HASTINGS: Who was the father of Hannah Brown? A He was a statesmark man, he didn't belong here, and her father, I don't where her father is.

The Kern-Clifton roll of Cherokee freedmen examined and names of applicant's grand children found thereon as follows:

Page 184, #4531, Hannah Brown, no district given.
Page 184, #4532, Myrtle Brown,
Page 183, #4508, Silas Harris, no district;
Page 183, #4509, Mamie Harris, no di strict given.
Page 183, #4510, Minnie Harris, no di strict given.

COM'R NEEDLES: Is the mother of Silas Harris living? A She is dead.

Q Did you draw strip money at the same time that you drew money for the grandchi ldren? A Yes, sir.

MR. SMITH: Do you remember what name you applied under at the Kern Clifton Court? A Yes, sir, my name went by my owners' name.

Q Well, what was that? A I spoke about it a while ago, McPherson.

Kern-Clifton roll of Cherokee Freedmen further examined and name of applicant's found thereon, page 184, #4523, Betsy McPherson, no district given.

MR. HASTINGS: You are a pretty old woman, ain't you Auntie? A Yes, sir, my recollection I am pretty near gone.

Q You live up near Nowata don't you? A Yes, sir.

Q About how far from Nowata, Auntie? A Three miles.

Q The Commission was out there a month wasn't it? A Yes, sir, I didn't go to town then, I tried but was feeble and wouldn't let me attend until they got away.

Q You had some children that applied, Sarah Hines? A Yes, sir.

Q When did you say you left Mound City, Kansas? A It was two years after the war.

Q What did you do the next year after the war? A Well, I stayed there and worked for a living like I have been doing, just washing, for my children.

Q Where did you and Anderson Turk marry, up there? A That wasn't my husband, that was my sister's husband, he brought me down here.

Q Did you have a husband up there? A Yes, sir.

Q What was his name? A Joe Reed was his name.

Q Now, when did you and Joe Reed marry or commence living together?

A It was during the war.

Q Was he in the army? A No, sir.

Q Did you live with Anderson Turk? A No, sir, my sister did; I lived near there, we all lived near neighbors.

Q Was Anderson Turk in the family? A No, sir.

Q He was not? A No, sir.

Q You all lived near there together? A Yes, sir.

Q Well, about two years after the war you came down here did you; what time in the year was that? A I could not just tell you.

Q Spring, summer, Winter or Fall? A Along towards the spring, early part.

Q And that was about two years aft er the war closed? A Yes, sir.

Q Well, how did you come down from Mound City? A Yes, sir.

Q In a wagon? A In a wagon.

Q Who came along with you? A Anderson Turk and Spencer Harris.

Q Just them two fellows? A Yes, sir, and some small children.
Q Whose children did you have? A One was my own and the other one was my brother-inlaw's.
Q Well, did they leave you and go on back? A I went back when they went after staying a while.
Q Well, now, did you stay here as much as a week or three days, what is your best judgment? A As well as I can study I can't think whether it was a week or two weeks or longer.
Q Short time was it? A Yes, sir.
Q Auntie, where did you come to at that time? A I stopped at a man's, if I can think of his name.
Q White man or colored man? A Colored man, camped in the woods.
Q Near what town, Auntie? A Near this Nowata, this side of Nowata
Q How far from Goody's Bluff? A It wasn't a great ways because the Verdigris river is on this side of there.
Q What did you get to eat down there? A Just what hunted and got.
Q You didn't see a ny Cherokees? A No, sir, more Osages than anybody.
Q You never saw any colored people A No, sir.
Q And you went on back did you? A Yes, sir.
Q Now, Auntie, on this trip down there you never saw any Cherokees that you remember? A No, sir.
Q And you never saw any colored people that you remember?
A Yes I did see colored people that I remember about.
Q Who were they? A I can't think of the men.
Q Where did you see them? A Down there where we were camped.
Q Did you go by any of their houses? A Wasn't no houses, I saw houses but wasn't many houses to be found.
Q Well, through what town up near the line did you come through when you come down here? A Chetopa.
Q You remember Chetopa, do you? A Yes, sir, that is all I remember, wasn't any but that one.
Q About how many stores did Chetopa have at that time?
A I could not tell you, wasn't many.
Q There were some stores there? A Yes, sir.
Q And town there? A Yes, sir. We didn't find enough to get us anything to eat; Tobe Schrimsher and he had a wife, her name was Edy, they lived in the woods.
Q That is one colored man that you remember seeing? A Yes, sir; at that time.
Q They were living in the woods? A Yes, sir.
Q And then you went on back to Mound City, did you? A Yes, sir.
Q You come back here the next time to the Wallace payment?
A Yes, sir.
Q That is the next trip you made down here? A Yes, sir.
Q You didn't get on that Wallace roll? A No, sir, I didn't get any money.
Q Now, the time you went back up there until the Wallace payment you lived at Mound City? A Yes, sir, Until I come back.
Q Now, was Mr. Wallace down here making a roll when you came down here to enroll from Mound City? A They had just broke up when I got here.
Q He had just broke up his enrollment? A Yes, sir.
Q You were a little too late? A Yes, sir.
Q Now, from the time you never went back up there you never come down until you came to enroll before Mr. Wallace and you found that he had broke up? A Yes, sir, I come to see that and get my home.
Q You never came until then though? A No, sir.
Q Now, you are applying for some young children, ain't you?
A Yes, sir.
Q One of them's name is Hannah? A Yes, sir.
Q What is Hannah's mother's name? A Name was Mabel.
Q Now, where was Hannah born, was she born up there at Mound City?

A She was born up there at Mound City.
Q Now, where was Myrtle born; was she born at Mound City?
A Yes, sir.
Q Was Silas, was he born at Mound City? A Yes, sir.
Q And another one, Mima, was she born at Mound City? A Yes, sir.
Q And then there is a Minnie? A Yes, sir.
Q She was born at Mound City? A Yes, sir.
Q Now, none of these children had ever been down here until you come to enroll before the Wallace Court? A Yes, sir.
Q And that is their first trip? A Yes, sir.
Q What did you do up there, Auntie? A Just anything at all to work and make a living, washing because I had nothing else to do, could not do anything else.
Q Where was your husband, Joe Reed? A He was there, he would not come when I wnted to come.
Q He wanted to come? A No, sir.
Q Did you keep house up there? A Yes, sir, we had a home rented.
Q What become of Joe? A I left him.
Q When you come down here to the Wallace payment? A Yes, sir.
Q You left him u there did you? A Yes, sir, he would not come he said he was afraid of the Indians.
Q Did you bring these children when you come that time?
A Not the first time I come.
Q These children, did you bring them when you come to enroll at the Wallace Payment? A Yes, sir.
Q Well, now, how long did you stay here when you come to the Wallace payment? A I don't know, I expect I stayed a month.
Q And then you went back to Mound City? A Yes, sir.
Q How long did you stay there? A I stayed a good while, I went back on account of work.
Q Now, when did you come here this last time, did you come here this year? A No, I have been here a good while.
Q Well, about how long, your best judgment? A Been here over 20 years, my best judgment.
Q That has been since the Wallace payment? A Yes, sir.
Q Do you think that has been 20 years ago? A No, my judgment I come here-
Q Now, how long did you stay when you went back from the Wallace payment, how long did you stay at Mound City before you came back?
A I don't know as I stayed there two or three.
Q And then you brought these children for whom you apply down the first time did you? A I don't know whether I brought them down or not.
Q Well, when did they come down here? A The way they come, I got them to take care of them when their mother died.
Q When did their mother die? A I don't know.
Q Where did she die? A She died in Kansas.
Q Mound City? A Yes, sir.
Q Well, don't you remember how long ago it was? A They was quite small them I had and the others was good sized; Rachel was right small, wasn't over seven or eight years old then and I brought them here after she died and I raised them.
Q When did you see Sam Webber first? A Why I seen him here.
Q When you come to the Wallace payment? A No, that was when I come back; I had a son that come with my brother when he come and he got shot and that was what first hurried me down here when I come to carry him off to get him doctored.
Q There did you see Sam Webber? A First saw him then, at Jess Brown's.
Q Was Sam Webber there? A Well, he was at this man's house I spoke of, had a tent.

Q He had a tent? A This man I spoke of.
Q You wasn't at his house? A No, sir.
Q You wasn't there? A No, sir.
Q Where did you see Harry Still? A He was there.
Q At that tent? A Yes, sir.
Q You didn't use them as witness four year ago did you, five years ago? A I don't know as I used either one of them or not, I don't know whether I did.

COL'R NEEDLES: Who was the mother of Hannah Brown and Myrtle Brown? A Same mother.
Q What was her name? A Rachel.
Q Was she your daughter? A Yes, sir.
Q Where was she born? A I think she was born in Kansas.
Q Where did she die? A She died in Kansas.
Q Where was Hannah and Myrtle born? A In Kansas.
Q Who was the mother of Silas and Mamie and Minnie Harris? A That's my daughter Aggie.
Q Where was she born? A She was born here in the Nation.
Q Was she younger? A She was the oldest daughter.
Q Born before the war? A Born here before the war.
Q Did she go out with you when you went? A Yes, sir, that was during the war.
Q Where were these children, Silas, Mamie and Minnie born? A In Kansas.
Q And their mother diedin Kansas? A Yes, sir, she came here and went back.
Q She came here with you and went back? A Yes, sir.
Q Did she have the children here with her? A Yes, sir. She came here with the intention of living.
Q Did she have these three children when she came down with you the first time? A Yes, sir.
Q As I understand then when you came back here to the Nation the first time that you had Aggie here with you? A Yes, sir.
Q And these children were with her? A No, I will withdraw that, she had these children after she growed up in Kansas.
Q She didn't have these children when she come down with you? A No, sir.
Q Wasn't born then? A No, sir.
Q And after she went back with you up there the children were born? A Yes, sir.
Q Did you have any children that come down with you except her? A Yes, sir, there was three besides her.
Q That came down with you? A Yes, sir.
Q Are they living any of them? A Yes, sir.
Q What were their names? A Calls Sarah Hines now, and called her Low, she was named Senie.
Q And what were the other ones' names? A Rachel.
Q They come down with you? A Yes, sir
Q They had no children at that time did they? A No, sir.
Q They went back with you? A Yes, sir.

MR. SMITH: You spoke abo ut being at Jess Brown's and about somebody being sheot, who was that? A That was my son when he came here with me.
Q Who was your son? A John Tucker.
Q When was it you met Jess Brown? A That was when I come in a wagon for the first time I come and went back.
Q Was that the second time you come? A Yes, sir.
Q How long was that after the first time you come? A I stayed about a month, not month, a year or two after I came back.
Q Have you much idea of time? A About as near as I can guess at it.
Q You said a while ago it was about 20 years since the Wallace roll? A If I did I didn't mean it.

Q Do you know how long it has been since the Kern-Clifton Court?
A No, sir, I ain't got no idea how long it has been, it has been about 12 years, about as near as I can guess at it.
Q Do you know hot long it has been since this Dawes Commission was at Nowat? A Here this last time?
Q Yes? A I can't tell you that because I ain't kept no count.

SAM WEBBER being duly sworn by Commissioner Breckinridge, testified as follows:

MR. SMITH: State your name? A Sam Webber.
Q Where do you live, Mr. Webber? A Three miles west of Nowata.
Q What is your post office? A Nowata.
Q How long have you lived in that country? A Oh, about three years.
Q Are you a citizen of the Cherokee Nation? A Yes, sir.
Q On the 1880 roll? A Yes, sir.
Q How old are you? A About 68, somewheres near about there.
Q Do you know this applicant, Betsy Reed? A Yes, sir.
Q How long have you known her? A Ever since I could remember.
Q Did you know her before the war? A Yes, sir.
Q Was she a slave? A Yes, sir.
Q To whom did she belong? A Man by the name of Aleck McPherson.
Q Was he a Cherokee Indian? A Yes, sir.
Q Where did he live? A I have always heard he lived on Dog creek I never was at the house until here since the war.
Q What Dog creek, what point on Dog creek? A It is down here close to Claremore, in the Cherokee Nation.
Q About when did you know this woman, Betsy Reed before the war, how long before the war? A Ever since I could remember.
Q Where was she when the war came up? A She was here in the Nation when the war came up.
Q Do you know whether she was out of the Nation during the war?
A Yes, sir.
Q Did you see her out? A I seen her out.
Q Where did you see her? A I seen her in Mound City, Linn County Kansas.
Q Do you know when she first returned to the Cherokee Nation after the war? A I saw her late in the Fall down here on the Verdigris near Coody's Bluff in the Cherokee Nation, at old Uncle Tobe Schrimsher's.
Q In the Fall of what year? A '66.
Q Who was with her? A A man by the name of Anderson Turk and Spencer Harris.
Q Who were they, colored people? A Yes, sir, they was colored men
Q Did this woman have any children? A I think she had four with her.
Q Do you know, or did you not, know what their names are? A One of them was named Aggie and one Sarah and one Jessie and one Rachal, the youngest one.
Q Did you see her after that at any time? A I never saw her but that one time right there.
Q When did you next see her after that? A I saw her in '68.
Q Where? A Near the same place only across the river there on the other side of the Verdigris at her brother's.
Q At whose place? A Jess Brown's.
Q Then how long after that was it until you saw her again? A How [illegible] and she come down to see him [illegible] and then I never saw her any more until I seen her here, A short time before the Wallace Court I seen her here.
Q Do you know where she lives now? A Yes, sir.
Q How long has she been living there? A I don't know as I could tell you exactly just how long she has been living where she is living because she stayed with her brother when she first came [illegible] before she went on that place.

Q Where does her brother live? A Over there about Coody's Bluff on the Verdigris.
Q Do you know how long she lived with her brother? A Not exactly I don't; I seen her there, I was down there one Sunday and seen her that Sunday, and I never went down for sometime after that.
Q Do you know her daughters now, her children? A Yes, sir.
Q What are their names? A One of them is named Sarah.
Q Sarah what? A Sarah Hines she goes by now, and one Senie and I don't believe I could call the others by name, it is kinda of a curious name and I hear some of them call him Doggin and some calls him Dobin, I never tried to find out his name.
Q Who are the others? A She has got some grown children I could not name them and one young man they call Silas Harris, but I could not name the other children, I see them often too.
Q Where did you livebefore you went to the place you live now?
A Big creek, Cherokee Nation.
Q About how far from where you live now? A About 15 or 16 miles, maybe 17.
Q How long you been seeing this Betsy Reed here in the Nation since you met her there at the Wallace Court?
A I have seen her pretty much ever since, often and on, pretty much ever since that time.
Q How long had you been seing Sarah Hines? A She was here at the Wallace Court and then I never seen her any more until about, well when, about the Clifton and Kerns Court.
Q Do you know where she has been living since the Clifton and Kerns Court? A Yes, sir.
Q Where? A Nowata.
MR. HASTINGS: You saw her first in a tent? A She was there at Uncle Tobe Spencers, down where he was camped.
Q How far is it from where Coody's Bluff is now
A Mile and a half or two miles.
Q What direction? A Right down the river, south.
Q How far did you live from there at that time? A About 15 miles I guess. I lived up the creek at that time; it must have been all of that.
Q Were you examined here as a witness in this case? A No, sir.
Q How long have you been here? A I have been here since the Courts has been here only when I would go home.
Q What are you doing here? A Just looking and listening, see what I could hear.
Q You attended at Fort Gibson? A No , sir, I never went there.
Q Are you on a Committee of Freedmen here? A No, sir, I just come here to see what is going on.
Q Stayed here all this month? A Yes, sir.
Q Although you are on the roll of 1880 yourself? A Yes, sir.
Q You have testifiedin a great many Freedmen cases? A Yes, sir.
Q Did you testify for this woman before the Kern-Clifton Commission? A No, sir.
Q How long did you stay down there in the bottom at Coody's Bluff when you saw this woman? A I didn't stay long.
Q Well, about how long? A I couldn't tell you, I didn't stay there long.
Q Little while? A Yes, sir.
Q Part of one day? A Yes, sir, part of one day I guess.
Q Stayed all night there? A No, sir, I didn't stay all night.
Q You remember her children's names that was with her?
A Yes, sir.
Q Was her husband with her? A No, sir.
Q Harry still along with you? A Yes, sir, me and Harry was together.
Q You and him was side-partners? A A We got together that day.
Q Were you married at that time? A No, sir.

Q Had you moved to the Cherokee Nation at that time? A I was living on Big creek.
Q Where did you marry first? A Married up north, went up north and married and come here and brought her down here.
Q You married her in Kansas? A Yes, sir.
Q Did you marry her before you left Kansas? A No, sir, I went up there and got her, was engaged and when I got fixed moved her here.
Q What time did you marry? A Oh, sometime along short time after Christmas as near as I could remember.
Q You testifiedin the Abraham Ward case didn't you? A Yes, sir.
Q Number D.807, you testified that he come down there in '66?
A Yes, sir.
Q Where did you live before the war? A Double Springs.
Q How far was that from where this woman lived at McPherson's?
A About five or six miles.
Q How long before the war had it been since you seen this woman?
A I could not tell you that, they was at my house pretty frequently when they were going to Tahlequah.
Q Q Would they take girls folks with them when they were going to Tahlequah? A Yes, sir, lots of times.
Q Well, did they ever take her? A Yes, sir.
Q Well, now, how long before the war was it before they took her?
A I could not tell you.
Q You never was at her place on Big creek? A Not before the war, I have been since the war.
Q You belong to this Freedman Protective Association? A Yes, sir.
Q How long did that woman stay down there in the bottom at Coody's Bluff? A I don't know, I didn't stay there myself.
Q You spoke a while ago of her coming down to see her son that was shot where did she come from when she come down? A She must have come from Kansas.
Q She told you she came from Kansas? A Yes, sir.
Q Do you know how long she stayed here that time, in 1868 you so stated? A I could not tell you.
Q Di d you see her more than once? A I didn't seeher but the one time.
Q And you never saw her any more until the Wallace Court?
A No, sir, just short time before.
Q Well, now, when was that? A Why when the Wallace Court was, as near as I could remember, it was just a short time before that.
Q Well, when was the Wallace Court? A I could not tell you exactly.
Q Wasn't that an important event? A Yes, sir, it was important, but I never paid any attention to the dates of it.
Q And you don't know now? A I don't remember exactly.
Q About how long ago? A Right smart while ago, but I can't just tell the regular time.
Q Well, now, then, in between '68 and that time you never saw this woman? A No, sir.
Q Where did she come from when she come down there that time?
A I guess she must have come from Kansas; I don't know myself I never seen her when she come.
Q Di dn't you see her here? A I never asked her really about it.
Q Did she go back up to Kansas after the Wallace payment?
A I don't know whether she did, I never missed her any more.
Q How far did she live from you? A When I lived down the creek, I guess she was about 12 miles from me, hardly so far.
Q Would you have missed her if she would have gone three years?
A I might have, I was presuming there.
Q If she said she was gone two or three years she is mistaken?

A I don't know; I don't remember of missing her after that.

HARRY STILL, being duly sworn by Commissioner Needles, testified as follows on part of Applicants:

MR. SMITH: State your name? A Harry Still.
Q How old are you? A 54.
Q Where do you live? A Hayden.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant, Betsy Reed? A Yes, sir.
Q How long have you known her? A I knowed Betsy Reed since the fall of '66.
Q Where did you see her? A Tobe Schrimsher's.
Q Where was that? A On the Verdigris river.
Q What part of Verdigris river? A About the old Brown crossing, right due west of here on the Verdigris river, on t his side.
Q How far was it from Coody's Bluff? A It must have been about two and a half or three miles.
Q Was it in the Cherokee Nation? A Yes, sir.
Q Who was with her, if any one? A She has a girl by the nameof Aggie, Sarah, Senie and Rachel was wi th her at that time.
Q Have you ever seen Sarah since? A Yes, sir.
Q Do you know her now? A Yes, sir.
Q What is her name now? A Sarah Hines.
Q Well, when did you next see this applicant, Betsy Reed after that time? A '68.
Q Where? A Jess Brown's.
Q Who was Jess Brown? A Her brother.
Q Whose brother? A I t hink it was her brother.
Q Well, you said her brother, who? A Said to be, here this woman right here.George got shot and she come there and got him, John rathe
Q Who was John? A John Tucker, her boy.
Q Who shot him if you know? A Shot himself.
Q Well, then when did you see herxk after that? A I never saw her until '69, let's see, '69 I believe was the next time I ever saw her.
Q How long was it after you saw her at this place please her boy was shot until you saw her again? A I never saw her any more until about the time of the Wallace made his roll, '69 I believe.
Q Until when? A Until the Wallace roll was made was the first time I saw her.
Q Have you seen her at any time since the Wallace roll was made?
A Yes, sir.
Q How many times? A Pretty near all the times I have been seeing her pretty much all the time ever since.
Q Where does she live now? A Across the Verdigris river, close to Coody's Bluff.
Q Do you know Sarah Hines? A Yes, sir.
Q Where does she live? A She is staying at Nowata I think now, she used to have a place on Hogshooter.
Q How long has she been living up in that part of the country?
A I don't know just how long Sarah ha been living there, goot long time.
Q Well, has she lived there as long as three years? A Yes, sir, best that.
Q How long? A Well, si r, I tell you I don't know just how long she has been, it has been longer than three years.
Q Do you think it is five? A Yes, sir
Q You can't state? A No, sir, because Sarah has been there a good long time.

MR HASTINGS: You think the Wallace roll was made in '69?
A I don't know the exact date but something like that.
Q That is your best judgment? A Let's see, I used to know when that Wallace roll was made, but I have lost the remembrance of it now

Q Your memory is kinda faulty? A Well, I don't know.
Q It is good on '68? A Certainly.
Q But it is not good on the Wallace roll? A Well, I know Wallace made a roll.
Q And you think it was in 1868? A I ain't certain; '67, '79, it has been about 12 years.
Q That is your best judgment? A Yes, sir.
Q You and Sam Webber were together when you saw her? A No, sir, I lived on Lightning creek and Sam lived on Ti g creek.
Q You didn't go with Sam over there? A No, sir.
Q I mean when you saw her in '68 in the fall you mean, not with Sam? A No, I wasn't with him I was by myself.
Q You are positive about that? A Yes, sir.
Q You are as positive about that as you are it was '68?
A Yes, sir.
Q Have you and you talked this matter over? A No, sir.
Q Never? A No, sir.
Q Now, I want you to be positive about that? A Well, I am going to be.
Q Well, who was she with over there? A She was with Tobe Schrimsher and her folks.
Q Any other men folks besides Tobe? A Yes, there was a fellow by the name of Spence, spence, Spence, Spencer Bell, I believe, and Turk, fellow by the name of Turk.
Q How long did they stay there, how many time s did you see them there? A I seen them there once, I was going over to George, not George, Jess Brown's that was in '68.
Q Now, when you saw them the first time? A Well, in '68 I was freezing over the country down there in the bottom, me and Uncle Nelson was together.
Q Nelson who? A Nelson Right, Whitmire.
Q You and him were together? A Yes, sir.
Q Is Nelse Wright dead? A I think he is.
Q Was it in the morning or evening you were there?
A About ten o'clock.
Q What were you doing there? A Just there.
Q Built them a house? A No, sir.
Q They have a field? A No, sir, Tobe didn't have anything, he was in the camp.
Q Do you know where she went from there? A No, sir, I never saw her any more until '68.
Q Where did she come from in 1868 A Don't know.
Q Never heard? A No, sir.
Q Where did she come from to the Wallace payment?
A Don't know.
Q Your memory is faulty about that? A I don't know, that her; I don't know where she came from.
Q You never heard her say? A No, sir, but I know I seen her there about and for she came after John.
Q How long have you been here at Yuma? A I have been here before there was any Yuma.
Q I mean before this fall? A I came here yesterday evening.
Q Is that the first time you have been here this month?
A No, sir.
Q Have you been here before, this winter? A Yes, sir.
Q How many times? A I have been over here on three times
Q Are you a member of the [illegible] Protective Association?
A I didn't know there was such a thing.
Q You never heard about it? A No, sir, I didn't know [illegible]
Q You
A [illegible]
Q You never heard of it? A No, sir, [illegible]

Q You never heard of it? A No, sir.
Q You testified in the Katie Thornton case? A Yes, sir.
Q You testified that she came back in 1866? A Yes, sir.
Q Did you testify in Abraham Ward's case? A No, sir.
Q You have tstifiedin 25 or 30 others? A I don't know whether it was 25 or 30 or 60, I testified in people's cases I knowed come here in side of the treaty.

MR. SMITH: You say Katie Thornton did come here in 1866?
A Yes, sir, I bought her place right on Lightning creek.

JOHN H. COODY, being duly sworn by Commissioner Needles, testified as follows on PART OF CHEROKEE NATION:

MR. HASTINGS: What is your name? A John H. Coody.
Q What is your age, Mr. Coody? A 46.
Q What is your post office? A Nowata.
Q What is your post office? A Cherokee by blood.
Q How long have you lived in the Vininity of Nowata?
A I was born there in the vicinity of Nowata, I have lived there since '68.
Q How far from Coody's Bluff? A Where I live?
Q Yes, sir? A About three miles.
Q Were you familiar with that section of country? A Yes, sir.
Q Did you have an occasion to go over it from '68 to '80?
A Yes.
Q Did you know this applicant over there, known as Betsy Reed ?
A Yes, sir.
Q When did you first know her? A It was about the first time I ever seen her somewheres about '85, as well as I can recollect.
Q Do you know where she come from or where you saw her?
A I saw her right there close to where she lives.
Q How far is that from Coody's Bluff? A It is about two miles south of me.
Q Do you know where she come from when she come there? A I was told she come from Kansas of course I don't know.
Q Were you told at the time? A Yes, sir, about the time I seen her that they said she was from Kansas.

Mr. Smith: If the Court Please, I will object to that unless it was something she said.

Q Did you ever hear her say it? A No, sir.
Q Did you ever hear any of her family say it?
A I heard her brother, George Brown.
Q Do you know what part of Kansas? A No, sir.
Q Did you ever see her before that time? A No, sir.
Q Do you know Sarah Hines? A Yes, sir.
Q When did she come down? A First time I seen her was somewhere in Ninety, about '93, '4, I saw her there about Nowata.
Q You have lived up in that neighborhood ever since '68?
A Yes, sir, born and raised there.

MR. SMITH: Mr. Coody, has Sarah Hines been living up there in that country ever since you became acquainted with her about '93 or '3, it whatever date it was? A Yes, sir.
Q Has Betsy Reed been living up there in that country ever since you became acquainted with her? A Yes, sir, to the best of my knowledge.

HENRY ARMSTRONG, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation.

MR. HASTINGS: What is your name? A Henry Armstrong.
Q What is your age? A 69.
Q What is your post office? A Coody's Bluff.
Q Mr. Armstrong, how long have you lived in the vicinity of Coody's Bluff? A Ever since '68.
Q Do you know that colored woman over there that goes by the name of Betsy Reed? A No, sir.

Q What business have you been following over there? A I have been keeping post office there and been Merchant.
Q How long have you been a merchant over there? A Since '78.
Q You never got acquainted with that woman? A No, sir.
Q Did you ever see her? A I might have seen her.
Q You don't know when she come down ? A No, sir.

Com'r Needles: Betsy Reed applies for the enrollment of herself and five grandchildren, Hannah Brown, Myrtle Brown, Silas Harrys, Mamie Harris and Mima Harris. She cannot be identified upon any of the rolls of the Cherokee Nation except the Kern-Clifton roll. She is identified upon that roll as Betsy McPherson, McPherson having been the name of her former Master. Her five children are all identified upon the Kern-Clifton roll and no other, all according to the page and number of the roll as indicated in the testimony.

Q Are these children all alive? A Yes, sir.

She avers that all of said children are alive at this time and living in the Cherokee Nation, and that their parents are deceased. Ref- For the fact as to her citizenship erence is made to the testimony. Said Betsy Reed and her five grandchildren, as enumerated herein will be listed for enrollment as Cherokee Freedmen upon a doubtful card.

---oooOOOooo---

J. C. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J C Rosson

Subscribed and sworn to before me this November 13th, 1901.

Commissioner.

File with Senie Dorgan et al., C. F. D. 1095.

Department of the Interior
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 29th 1901.

In the matter of the application of Betsy Reed, C. F D. 1093-
SUPPLEMENTAL TESTIMONY.

Appearances:
W. W. Hastings for the Cherokee Nation
Mellette & Smith for the applicants.

(By Mr. Hastings)

I want to offer in evidence a certificate from J.A. Cady County Clerk of Linn County, Kansas, showing that Elizabeth or Betsy Reed, wife of Joseph Reed, appears upon the Assessment rolls as a resident of Mound City Township, in the State of Kansas in the years 1870 to 1876 inclusive.

( By Mr. Smith ) If the Commission please the applicants object to the introduction of what purports to be a certificate from the Clerk of Linn County, Kansas, for the reason that the certificate is not in proper form, and for the reason that it is not such a certificate as is made admissable in testimony by any law in force in this jurisdiction, and secondly, because there is no showing that the person named in said certificate is identical with the applicant, and for the following reason that the said certificate in no way conflicts with the testimony in the case, and does not tend to prove any issue in the case, and for the further reason that the said certificate amounts to no more than an affidavit that such and such facts appear and is not a certified copy of any record which is admissable under the rules of testimony, the certificate not being the best evidence.

By Commissioner C. R. Breckinridge: The objection of counsel for applicants will be noted, and what purports to be a certificate from the County Clerk of Linn County, Kansas, given under the seal of his office as to the records of that county, will be filed with the testimony in the case for the further consideration of the Commission.

= = = =

File with Cherokee Freedman D-1095, Senie Dorsen et al.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I.T., October 29, 1901.

In the matter of the application of Betsy Reed et al. for enrollment as Cherokee Freedmen.

Testimony introduced on behalf of the Cherokee Nation.

Appearances:
Mellette & Smith, attorneys for the applicants;
W. W. Hastings, of counsel for Cherokee Nation.

A. R. WAYNE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A A. R. Wayne.
Q What is your age? A Yesterday I was 48 years old.
Q You mean 48? A 58 years old, I was born in '43.
Q What is your postoffice? A Mound City, Lynn County, Kansas.
Q Do you know a colored woman by the name of Betsy Reed? A I used to know such a colored lady.
Q When did you first become acquainted with her? A In the year 1862 if I mistake not.
Q Where were you living when the war closed? A I was living three miles southeast of Mound City, County of Lynn, State of Kansas.
Q Have you lived in and about Mound City ever since? A I have.
Q Well now how long did you continue to know Betsy Reed, after you became acquainted with her in '62? A Till way long up in ninety, the year 1890, or a little later than that maybe, but along about that time.
Q Where did she live during that time? A She lived near me for four years and then she moved to Mound City, during the time I had moved my place a little nearer to Mound City, and she lived then in about two and a half miles of where I lived.
Q What was her husband's name? A Joseph Reed.
Q Was she living with Joseph Reed when you first knew her? A No, sir.
Q Where did she marry him? A Married there at Mound City; no, it was west of Mound City where her residence was at that time, she was living with her brother.
Q What was her brother named? A George Brown.
Q This woman have any children? A Yes, sir.
Q What were their names? A Sarah and Sena.
Q Do you remember who Sarah married? A Well, she was married twice; she first married C. C. Green, and I declare I forget the other name, it is familiar, but I can't call it to mind now.
Q You only knew two husbands? A She had two husbands.
Q Up there? A Yes, sir.
Q You don't recollect her second husband? A No, sir, I don't, but one of them was C. C. Green.
Q Well, did the other girl, Sena, marry? A Yes, sir.
Q Do you know her husband's name? A It was a Duncan.
Q Well, what are these boys' names? A One of them was named John.
Q John what? A John Tucker is what we call him, she said it was her boy, and the other was George.
Q Well, where did they live? A They lived at Mound City, and around Mound City; they lived with her till they became of age, or about of age.
Q How far did you live from them during that five years? A The farthest that I lived was about four miles.
Q How long did these children live around there with their mother?
A Well sir, I can't really tell you what time they did live, they stayed around there till after she moved to Mound City, and then I

didn't see them quite so often, I understood they had bought a lot in Mound City.

Q About how long after the war was it before they moved up in town? A Well, it was '66 or '7, '67 I think.

Q When they moved up in town? A Yes, sir.

Q You saw them about town after that? A Oh yes.

Q Well how long did you see them about town? A Well it was somewhere along in the eighties, maybe as far as the year '90, along about that time.

Mr. Smith: Mr. Wayne, when did you last see George Tucker? A I can't state the exact time.

Q Where was George Tucker in March, 1866? A He was living in 1866, he was living - -

Q In March now? A Yes, sir; he was living four miles and about a quarter out west of Mound City.

Q Where was he in April? A I can't tell you where he was in April.

Q Where was he in May, 1866? A I can't tell you, I presume he was right there at the place.

Q Not what you presume, but what you know? A I can't tell you whether he was there or not, I saw him every month or so.

Q Where was this man, George Tucker, in September, 1866? A Well I saw him there at his stepfather's.

Q You saw him in September? A I can't tell you whether it was in September, it was in '66.

Q Did you see him in October, '66? A I can't tell you whether it was that month or not.

Q Did you see him in November? A I can't tell you whether it was November, I paid no attention in regard to the months.

Q Do you know where Betsy Reed and the Sarah and Dena you have been talking about were in September, '66; did you see them in September, '66? A I don't know sir whether it was September or not.

Q Did you see them in October? A I can't tell you, I saw them in '66.

Q Did you see them in November? A I can't tell you whether it was that month or not.

Q Do you know where Betsy Reed was in the month of February, '68?

A In '68, no, sir.

Q Or January, '68? A No, sir, not for certain.

Q Or March, '68? A I know how I saw her there some period of these months, but what months it was I can't tell you.

Q Can you tell me any particular time in '68 that you saw Betsy Reed? A No, sir.

Q You say that there was only about four years of the time that they lived right near you? A Yes, sir, and then they moved to Mound City.

Q Where were they living when you first knew them? A They were living when I first knew them only about three quarters of a mile from where I lived.

Q That was in '68? A Yes, sir.

Q Know what time in '68? A Well, it was in the spring, but then I can't tell you the month; it was in the spring, I know that by my father's death and some of us going there.

Q When did your father die? A '68, the 18th of January.

Q And it was about that time that you first got acquainted with these people? A Yes, along about that time.

Q Now it was about four years they lived that close by you? A No not that close, they kept moving from different places around, they were living on four different plabces.

Q Well, how long did they live that near to you? A Well it was a year or so, I don't know exactly the time.

Q How far were they from you when they lived at Mound City? A Part of the time while they were living in Mound City they were about two miles and a half, and I was at a different place after that during that year, maybe pretty near four miles and a half.

Q Were you farming? A In '68 you mean now?
Q Yes? A Yes, sir.
Q Were you farming during all the time that you lived in the country and they lived in town? A No, sir.
Q When did you go to Mound City to live? A I never went to Mound City to live.
Q You don't live there yet? A No, sir; well I did live there in '85 for a short time.
Q You didn't see very much of these people, did you; you had no occasion, you didn't go around, didn't go to their house? A Why I went to their house once or twice while they were living in Mound City.
Q Once or twice? A I can't tell you, sir.
Q You don't know whether the woman you are talking about is the same woman that is applying here for enrollment, or not? A Only by the name under which I have been informed probably that this is the ones; I don't know, no, sir.
Mr. Hastings: Well, did you see these people frequently now from the time of the war up until the time they left there in about '90?
A Yes, sir.
Q Was Mound City your trading point? A Yes, sir, I made a rule of going there every Saturday.
Q You knew them in the country before they moved to town? A Yes, sir.
Q Then you saw them in town after that? A Yes, sir.
Q Did you ever miss them from up there any considerable length of time? A I did not.

Commissioner: This will be filed in D-1093, Betsy Reed, and will also be made part of the record in D-1094 and D-1095, and George Tucker, D-1013.

NEV CAMPBELL, being duly sworn by Commissioner Needles, testified as follows:
Mr. Hastings: What is your name? A Nev Campbell.
Q What is your age? A 57.
Q What is your postoffice? A Mound City, Kansas.
Q How long has that been your postoffice? A 35 years.
Q Did you ever know a colored woman by the name of Betsy Reed?
A Yes, sir.
Q Where did you know her? A Mound City, Kansas.
Q About how long have you known her? A Well, I have been personally acquainted with her since 1889, and knew of her by reputation for a great many years before that.
Q You only knew her from that time? A Yes, personally acquainted with her and knew her by sight since '89.
Q Do you know any of her children? A Well, I know the Tucker boys.
Q What are their names? A John and George Tucker, and Sallie Green, or Mays; Sallie Green and after she married Mays and he died there.
Q Where were they living when you knew them in '89? A Living in Mound City; well these Tucker boys were not living there at that time, I believe one of them had gone away at that time, John I think.
Q You didn't know them personally prior to that? A Well no, I didn't know them personally prior to that, I knew them by reputation.
Q What was Betsy Reed's husband's name? A Betsy Reed's husband's name was Joe; they parted living in about '80 or '90.
Q Did you have any business for her? A Not for her, I did have for Joe, her husband; I was publishing a newspaper at that time and and published his notice of divorce in the newspaper at that time, and

she left permanently about 1893 or '4, and the current report was that she had gone to the Nation to draw her money; her money from the Cherokee Nation.

Mr. Smith: What is your occupation? A I am an attorney.

Q Did you ever hear Betsy Reed say where she was going? A No, as I stated, it was the current report that she was coming here; I know this, that she and her daughter Sallie Green were around on the streets taking up a collection from their friends to get money to come down in about '93 or '4, I saw them on the streets and parties told me that is what they were doing.

Q As a lawyer, you ought to know better than to testify to hearsay testimony? A Strictly speaking that is true, but judging from what I have heard you ask as questions, I don't think the rule is very strictly enforced here.

Q You thought you wouldn't observe it? A Well, I took my cue from you.

Q Well, that notice for a divorce was against a non resident in the State of Kansas? A Why I suppose it was, yes, sir.

Q Well you don't publish notices where they are residents? A No, sir, if they know where they live: now if you will permit me to say, I understood she had gone down to the Nation about that time, but afterwards I know that she returned, in about a year, I think, or less: I know during the time she was in the Cherokee Nation in eighty or ninety, this publication was made.

QQQQQQQQQQ

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof

Bruce C. Jones

Sworn to and subscribed before me this the 12th of November, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Betsy Reed et al., as Cherokee freedmen, consolidating the applications of :

| | | |
|---|---|---|
| Betsy Reed et al | Cherokee Freedmen | D 1092 |
| Sarah Hines et al | " " | D 1094 |
| Senie Dargan et al | " " | D 1095 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee freedmen, were made to this Commission by, Betsy Reed for herself and her minor grandchildren, Kenneth and Myrtle Brown, Giles, Nannie and Mina Herring; by Sarah Hines for herself and her minor children, Steve, Eve and Sara Green, Homer, Lawrence, Simeon, Andrew and Monk Hayes, Clinton and Clifton Hines; by Senie Dargan for herself and her minor children, Rebecca and John Sullins.

The evidence shows that Betsy Reed was the slave of one McPherson, a Cherokee citizen, at the commencement of the rebellion, and that during said rebellion she removed to the State of Kansas, and did not return to the Cherokee Nation within the time specified in the decree of the Court of Claims rendered February 3, 1896, in the case of Reese Whitmire, trustee, etc., vs Cherokee Nation et al, for the return of freedmen to the Cherokee Nation.

The evidence further shows that the respective mothers of the minor grandchildren of Betsy Reed, for whom she makes application, are dead, and prior to their death acquired no rights under the treaty between the United States of America and the Cherokee Nation of Indians, concluded July 19, 1866. It is further shown that Sarah Hines and Senie Dargan are the adult daughters of Betsy Reed, and returned to the Cherokee Nation with their said mother, but she, their said mother, failing to return to said nation within the time specified in the decree of the Court of Claims, cannot now acquire no rights not possessed by her. The minor applicants having been born subsequent to the time specified for the return to the

Cherokee Nation of Cherokee freedmen, in the decree of the Court of Claims, ante, assumed the status of their respective ancestors, and consequently possess no rights as Cherokee freedmen.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Betsy Reed Hannah Brown, Myrtle Brown, Silas Harris, Mamie Harris, Mima Harris, Sarah Hines, Jesse Green, Eva Green, Cora Green, Homer Mayes, Lourena Mayes, Blanche Mayes, Andrew Mayes, Mona Mayes, Clinton Hines, Clifton Hines, Senie Dorgan, Rebecca Collins and John Collins, as Cherokee freedmen, should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

_____
Chairman.

_____
Commissioner.

_____
Commissioner.

_____
Commissioner.

Dated at Muskogee, Indian Territory,
this APR 2 1904

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date Oct 26, 1901

Post Office Muskogee, I.T.

District Tennessee

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. 1 ..... District .....

Parents:

Father ..... Citizenship .....

Mother Senia Citizenship .....

2. Name of wife ~~Senia~~ Dougan Age 40

Owners name ..... Citizenship .....

Year K. b. Page 184 No. 4520 District Ne. District

Parents:

Father ..... Citizenship .....

Mother Betsy Reed living Citizenship .....

Names of Children:

| | | | | | | |
|---|---|---|---|---|---|---|
| 3. | Rebecca Hellins | Year K. b. | Page 184 | No. 4521 | Dist. Ne. District | 16 |
| 4. | John Hellins | Year " | Page 184 | No. 4522 | Dist. " " | 13 |
| 5. | | Year | Page | No. | Dist. | |
| 6. | | Year | Page | No. | Dist. | |
| 7. | | Year | Page | No. | Dist. | |
| 8. | | Year | Page | No. | Dist. | |
| 9. | | Year | Page | No. | Dist. | |
| 10. | | Year | Page | No. | Dist. | |
| 11. | | Year | Page | No. | Dist. | |
| 12. | | Year | Page | No. | Dist. | |

Application made by ..... Stenographer J. V. Rosson

No 1 on K. b. Roll as Senia Hill.
No 2 on K. b. Roll as Rebecca Hill
No 3 on K. b. " as John Hill
Ref 1093

Applicant represented by Attys Mellette & Smith

Cherokee Freedmen.
D-1095.

Muskogee, Indian Territory, May 4, 1904.

Senie Dorgan,

Nowata, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, rejecting, among others, the application for the enrollment of yourself, Rebecca and John Collins as Cherokee freedmen. Your attorney, Edgar Smith, Vinita, Indian Territory, has heretofore been furnished with a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Register
Enc. D-165.

Cherokee Freedmen
D-1093 et al.

Muskogee, Indian Territory, May 4, 1904.

Edgar Smith,

Attorney for Betsy Reed et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Betsy Reed et al., rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mima Harris, Sarah Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Mayes, Clinton and Clifton Hines, Senie Dorgan, Rebecca and John Collins as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Enc. D-166.

Commissioner in Charge.

Cherokee Freedmen
D-1095 et al.

Muskogee, Indian Territory, May 4, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:-

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Betsy Reed et al., rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mima Farris, Sarah Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Hayes, Clinton and Clifton Hines, Tenie Dorgan, Rebecca and John Collins as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Tams Bixby

Enc. D-167. Commissioner in Charge.

Cherokee Freedmen
D-1093 et al.

Muskogee, Indian Territory, May 4, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Betsy Reed et al., including the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Nima Harris, Sarah Hines, Jesse, Eva and Cora Green, Homer, Loureha, Blanche, Andrew and Nona Mayes, Clinton and Clifton Hines, Senie Dorgan, Rebecca and John Collins as Cherokee freedmen.

Respectfully,

Commissioner in Charge.

Through the
Commissioner of Indian Affairs.

Enc. D-168.

COPY

Refer in reply to the following:
Land 21088-1904.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 17, 1904.

The Honorable,
The Secretary of the Interior,

Sir:

I have the honor to enclose herewith a report from the Commission to the Five Civilized Tribes, dated May 4, 1904, transmitting the record of the application for enrollment as Cherokee Freedmen of Betsy Reed for herself and five minor grandchildren, Hannah and Myrtle Brown and Silas, Annie and Nina Harris; of Sarah Hines for herself and ten minor children, James, Eva, Cora, Homer, Lourena, Blanche, Andrew, Mona, Clinton and Clifton, and of Annie Bergen for herself and two minor children, Rebecca and John Rolling.

April 20, 1904, the Commission found that the applicants were not entitled to enrollment as Cherokee freedmen.

The evidence shows that the applicants Betsy Reed and her daughters Sarah Hines and Annie Bergen, were the slaves of a Cherokee citizen at the commencement of the war of the rebellion; that they were taken out of the Cherokee Nation during the war and did not return and establish a residence therein as by February 21, 1867. The applicants Hannah and Myrtle Brown and Silas,

Nannie and Nina Harris are minor grandchildren of Betsey Reed and the applicants Jennie, Eva, Cora, Homer, Lawrence, Elsworth, Andrew, Hannah, Clinton and Clifton are the minor children of Sarah Hines, and the applicants Rebecca and John Collins are the minor children of Jennie Dorgan and were all born since February 11, 1887, and have no title except through their grandmother or mother. None of the names are found on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commissioner's decision adverse to the applicants is recommended.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

MM

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WCF

J.P.

D. C. 21704-1904.

I.T.D. 8832-1904.

R R E

FEB

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 24, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

May 4, 1904, you transmitted the record in the consolidated case involving the applications of Betsy Reed et al ( RD-1063 et al), for enrollment as Cherokee freedmen, including your decision of April 30, 1904, rejecting said applications.

Reporting in the matter June 17, 1904, the acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

1 inclosure.

Cherokee Freedmen
D 1094

Muskogee, Indian Territory, June 30, 1904.

Senie Dergan,

Nowata, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting, among others, your application for the enrollment of yourself and your two children, Rebecca and John Collins, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 1903, et al.

Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Mina Harris, Sarah, Clinton and Clifton Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Hayes, Sanie Dorgan, and Rebecca and John Collins, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
B 1093, et al.

Muskogee, Indian Territory, June 30, 1904.

Edgar Smith,
Attorney for Betsy Reed, et al.,
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Betsy Reed, Hannah and Myrtle Brown, Silas, Mamie and Wima Harris, Sarah, Clinton and Clifton Hines, Jesse, Eva and Cora Green, Homer, Lourena, Blanche, Andrew and Nona Hayes, Senie Dorgan, and Rebecca and John Collins, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

Cherokee freedman
R 406

Muskogee, Indian Territory, May 28, 1906.

Bennie Dorgan,
Nowata, Indian Territory.

Dear Sir:

You are hereby advised that the motion filed September 7, 1905, by your attorneys for review in your Cherokee freedman enrollment case was dismissed by the Department May 2, 1906.

Respectfully,

Commissioner.

MMP

Cherokee Freedmen
R 400, et al.

Muskogee, Indian Territory, May 26, 1906

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the motions filed September 7, 1905, by attorneys for applicants in the Cherokee freedmen enrollment cases of Joseph Brown and others named in the Department's letter of May 2, 1906, a copy of which is enclosed herewith, were denied by the Department in said letter.

Respectfully,

LMB

Commissioner

Cherokee Freedmen
R 400 et al,

Muskogee, Indian Territory, May 2, 1906

Blue & Bulger,

Attorneys for Joseph Brown, et al.

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motions filed September 7, 1905, by you, in the Cherokee Freedmen enrollment cases of Joseph Brown, and others named in the Department's letter of May 2, 1906, a copy of which is enclosed herewith, were dismissed by the Department in said letter.

Respectfully,

LMB

Encl. R-93

Commissioner

Cher. Fr. R-407

Cher. Fr. R-407

See Cher. Fr. R 408,9 -D-124

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, IT., APRIL 12th, 1901.

In the matter of the application of Sallie Mayfield for enrollment as a Cherokee Freedman; said Mayfield being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Sallie Mayfield.
Q How old are you, Sallie? A Well, to my recollection and judgment I am about 60 years of age.
Q What is your post office? A Gibson here.
Q What district do you live in? A Sequoyah here.
Q Do you apply to be enrolled as a Cherokee Freedman? A No, sir.
Q Who do you want to enroll? A I ain't been on any rolls as I knows of.
Q You apply to be enrolled now, do you, as a Cherokee Freedman?
A Yes, sir.
Q Did you ever apply to any other Nation or t ribe to be enrolled?
A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A No, sir.
Q Is your name on the roll of 1880? A No, sir.
Q Is your name on the roll of 1896? A Not on the roll nowhere as I know of.
Q Were you a slave? A Yes, sir.
Q Whom did you belong to? A Misses Mayfield.
Q Was she a Cherokee citizen? A Yes, sir.
Q Where were you at the beginning of the war? A They carried me out.
Q Where? A Carried me to Texas.
Q How long did you stay in Texas? A Just as soon as they told me peace was made I run away from there by night and come back here.
Q When was it you come back to the Cherokee Nation? A About '66.
Q Have you been living here ever since? A Ever since.
Q Who do you want to enroll besides yourself? A I got three boys.
Q What is the name of the oldest one? A Thomas Mayfield.
Q How old is he? A I tell you, just about how old he is, when I come back here in about three weeks I had him.
(All the children found to be of age, and applicant is informed that they will have to apply for themselves.)
Q So you don's apply for anybody but yourself then? A No, sir.
Q Did you draw what is known as the strip payment money? A No, sir.
Q Never been recognized? A No, sir.

BY J. B. DAVENPORT, Cherokee Representative:

Q How long have you been going by the name of Sallie Mayfield?
A All my life.
Q Have you been married? A I married, but I married a Mayfield.
Q Now, do you know what point you went to in Texas during the war?
A Went in West County.
Q Who went with you? A George Starr and young Jess Mayfield and Tom Mayfield.
Q Now, you came back after peace was declared? A Yes, sir.
Q You don't know how long it was after peace was declared? A I come back here about '66.
Q Was it before '66 or just after '66? A Just about '66.
Q I know you say it is about '66, you don's know when you did come, Aunt Sallie? A They told me; I just tell you what month I come back in, in June or July.
Q Now then when you came back here did you find anyone you had known when you left here? A Henry West and Walter Mayfield.

Q Were they Cherokee citizens? A Yes, sir.
Q They were not Cherokee Freedmen? A Yes, sir. Old man George Vann went to Texas and after I went to Texas and stayed there with him a while because old George Mayfield carried two of his sisters out.
Q That was George Vann that lives in Sequoyah district? A Yes, sir; after I come back sometimes when I wanted anything to eat I would go out to Fort Smith and get what I wanted and come back.
Q How long did you live in Fort Smith? A Staid a week or so and come back to old George Vann's.
Q Are you related to George Vann? A No, sir.

BY COMMISSIONER T. B.NEEDLES?

Q Have you got any witnesses here that know when you came back? A Yes, sir; George Vann and Alleck Nivens.
Q Are they here? A I guess so, they ought to be.
Q Why was not your name on the roll of 1880? A I don't know. Of course my husband died just about the breaking up of the war and I had notbody to come back and I don't know nothing. They had this last roll up there and they didn't put me on, I don't know what was the cuase.
Q They never let you draw any money? A No, sir.
Q Did you try to draw the strip money? A They said they never put my name on.

BY MR.J.S. DAVENPORT:

Q You say you left the Indian Territory with George Starr? A Yes, sir; Muss Mayfield left with George Starr, young Jess, and Tom Mayfield.
Q You came back to what district or what part of the Cherokee Nation? A I stopped in the Chickasaw Nation a while and I staid there , and when I went from there I went to Henry, I know him well because he raised me, old man Henry West.
Q Now, George Starr he left the Cherokee Nation the year before the War was declared, didn't he? A Not's I knows of.
Q You went with him? A Of course we got out of there because George did.
Q Were you there when George came? A Yes, sir.

BY COMMISSIONER NEEDLES:

Q Was that before the war or after the war? A During the war.

(By request of Attorney for Applicant this case is continued until a later date.)

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this 17th day of April, 1901.

Commissioner.

Testimony heard April 17, 1901.

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George Amos Mayfield, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A George Amos Mayfield.
Q What is your age? A About 50.
Q What is your post office? A You might say Muskogee.
By J. F. Faulds, attorney for applicant: Are you acquainted with Sallie Mayfield? A Yes, sir.
Q The one who has applied here for enrollment? A Yes, sir.
Q Did you know her before the war? A Yes, sir.
Q And during the war? A Yes, sir.
Q Do you know if she was a slave? A Yes, sir, she was a slave.
Q To whom did she belong? A Miss Sallie Mayfield.
Q Do you know whether she left here during the war, after the war had begun? A Somewheres along about that time.
Q And do you know when she came back? A Yes, sir.
Q When? A Along about 1868 she came down to old man Walk Mayfield's place.
Q She has been here ever since? A Been around and about first one place and then the other; first one district and the other, along up there in Webbers Falls, first one place and another and back to Fort Smith getting grub and one thing and another for her children.
Q You are a Cherokee Freedman, are you? A Yes, sir.
Mr. J.S.Davenport, attorney for Cherokee Nation: Where were you during the war? A My folks before the war?
Q Where were you? A They taken me and carried me away to Texas.
Q How long did you stay in Texas; about how long? A Four years I guess.
Q When did you come back from Texas? A I came back about 1865.
Q Who did you come back with? A I came back with George Adair, Kim and Dick Fields.
Q Where was Sallie Mayfield, the applicant at this time? A I don't know where she was.
Q Had you known Sallie Mayfield before the war? A Yes, sir.
Q Where had you known her? A I knowed her at my old home in Flint district.
Q How old was Sallie Mayfield when the war broke out? A I don't know.
Q Was she grown? A Yes, sir, grown and married.
Q When you came back from Texas, to what town did you come?
A Came right here.
Q Did you find Sallie Mayfield here when you came? A No, sir, I didn't find her here.
Q When did you next see Sallie Mayfield when you came back from Texas? A I seen her along, I can't say the month, I can't exactly tell; it was somewheres in the spring.
Q Now then what year did you come back from Texas? A I came back in 1865.
Q What time of the year 1865? A We started in March to come, and I got to the Creek Nation the last part of the month.
Q You came back then before peace was declared? A Yes, sir, I came back and came back in the Creek Nation the last part of March and I dropped with Mr. Fields.
Q Dick Fields? A Yes, sir, and Judge Adair.
Q Judge Adair in the Choctaw Nation? A No, sir, don't give me the Choctaw Nation, give me the Creek Nation.
Q That was in 1865? A Yes, sir.
Q Now then you came on back to the Cherokee Nation when? A In 1866.
Q And you have resided continuously here? A Continually backwards

and forwards.
Q When did Sallie come back to the Cherokee Nation, if she ever came back? A Well she came back all right enough.
Q When was it? A I can't tell you the exact time when she came back, I didn't see her when she came back, I seen her after she came back.
Q When did you see her? A Along about 1863 when I seen her.
Q How do you know it was along in 1866? A I was talking with Judge Adair about it myself and Mr. Fields, and they told me themselves.
Q They told you themselves it was about 1866? Didn't say 1865 or 1867, but about 1866? A No, sir, I just asked them about what time it was.
Q She came to what point when she came back? A I seen her this side of Fort Smith, this side of old man Henry Mayfield: I was living here and happened to be down in this country.
Q How long did she live in Fort Smith before she came into the Nation? A I don't know.
Q You were living in Fort Gibson and she was living down there?
A Yes sir.
Q And you don't remember what year it was you saw her down there?
A No, skr, I don't exactly remember, but it was in 1866 so I was told myself.
Q That fellow that told you is dead too isn't he? A Yes,sir.
Q You were grown at that time, wasn't you? A I must ha ve been.
Q You know, don't you? A Yes, sir, I was just about grown.
Q Do you want to be understood that you don't remember whether it was 1866 or what year it was y u saw this woman down there you had known before the war? A No, sir, I want to be understood it was 1866 I seen her.
QQ You know it was 1866 you seen her? A Yes, sir.
Q And you were living near Fort Gibson and she in the sourthern part of the Nation? A Yes, sir, I happened to go down that way and happened to seen her: I was first here and then there, I didn't stay in one place all the time
Q Where did Sallie Mayfield live when she returned to the Cherokee Nation? A She lived out here on the Canadian, she is living on the Canadian out on the bayou here in Illinois district now.
Q Has she resided continuously in the Cherokee Nation since she returned? A Yes, sir.
Q Don't you know she lived in Muskogee about ten years? A No,sir.
Q Have you known her continuously since she returned? A Yes,sir.
Q And known her to be living in the Cherokee Nation all the time?
A Yes, sir, she has been in Muskogee, I have seen her there.
Q And she has lived there too you know? A No, sir, I know she has come to Muskogee.
Q The fact of the business is you don't know where she has lived all the time? A No, sir, not all the time.

Mr. W.W.Hastings, attorney for Cherokee Nation: Did you know the applicant Sallie Mayfield when the war broke out? A I did.
Q Where was she then living? A She was living in Flint District, so I heard.
Q Was she living there? A She had been living there.
Q Do you swear it? A Well I can swear it.
Q Do you do that? A Yes, sir.
Q The Henry Mayfield you referred to is the same man known as Henry West that belonged to Walk Mayfield, Sequoyah district? A Yes, sir.
Q He was back there before this applicant, Sallie Mayfield, returned? A Yes, sir, he was there.
Q Walk Mayfield was also down there, was he, at the time she returned? A Yes, sir.

Mr. Faulds: Do you remember whenyou first saw her in the Cherokee Nation? A At Walk Mayfield's place.

Mr. Hastings: And he was there? A Walk, I think Walk was there, but old man Henry Mayfield was there himself, the old colored man that he owned.
Q Known as Henry West? A Yes, sir.

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G. W. Vann, being duly sworn and examined by Commissioner Needles, testified as follows:
Q What is your name? A G. W. Vann.
Q What is your age? A I will soon be 87.
Q What is your post office address? A Benge.
Q Are you a recognized Cherokee freedman? A I think not; they have been fighting me ever since I have been here.
Mr. Faulds: Where were you in 1861 when the war broke out, Mr. Vann?
A I was in Sequoyah district, sometime at Fort Gibson.
Q Did you know at that time Sallie Mayfield, the applicant for enrollment? A I did.
Q Where was she living at that time? A Part of the time she was somewhere up here in Flint, but when she started to go off she was in Sequoyah district; she taken two of my sisters with her, old Miss Mayfield.
Q Do you know where they went? A Texas they say, I didn't follow them.
Q Do you know whether she was a slave at that time? A I do.
Q To whom did she belong? A Old Mrs. Mayfield.
Q Where were you living in 1864? A Sequoyah; sometimes here at Fort Gibson, sometimes at Tahlequah.
Q Do you know if she came back in that year? A She came here in August, 1866, right along in August.
Q Has she been here ever since? A I don't know, I have seen her sometimes, and sometimes I haven't.
Mr. Hastings: Where did you see her in August of 1866? A I was here down by old Henry Mayfield's, a negro that belonged to Walk Mayfield.
Q Known as Henry West? Q Yes, sir.
Q In August of 1866? A Yes, sir.
Q To what Mayfield did this applicant, Sallie Mayfield, belong before the war? A Belonged to old Miss Mayfield.
Q What was her first name? A I don't know; why her name was Betsy; I believe her name was Sallie, I am not certain.
Q What was her husband's name? A Old man Mayfield?
Q Yes. A I am not certain, I believe his name was Bill.
Q Where did he live? A Lived on Blackburn Prairie, up from the river right on the prairie.
Q In what district? A Sequoyah.
Q He lived there when the war broke out? A No, there is where they kinda started from when they went to Texas.
Q When did they start to Texas? A Right along when the war began to get pretty hot.
Q Just at the beginning of the war? A No, sir, it was just after the beginning, it had been going on some time.
Q 1862 or 63? A No, sir, it wasn't sixty at all.
Q About what year? A Well, sir, that is a little farther than I know, I didn't take any particular notice what time they started, there was nothing particular to call my attention to it.
Q It was after the war of the rebellion had started up that old MissMayfield went to Texas? A Yes, sir, and taken two of my sisters.
Q Her husband was alive then, old Miss Mayfield's husband? I think not.
Q Did you know him? A Well I knowed him when he was alive, but I think not.
Q How long had you known him before that? A I had known him a

long time.
Q How long had it been just before that that you had known he was living? A He lived in the years when I known him, but in the time of the rebellion they was running around about and I paid no attention till when they started off with my two sisters, and then I went to see them when they left.
Q You were there when they left? A Yes, sir.
Q And you don't remember whether they were alive or not? A No, sir, I don't remember; there were so many taking their negroes to Texas I think he was dead, I dont think he was alive.
Q You are certain it was after the war commenced? A Yes, sir, because they taken my two sisters with them.

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Commissioner Needles: The name of Sallie Mayfield is not found on the authenticated roll of 1880, or the census roll of 1896. Final judgment as to her enrollment as a Cherokee Freedman will be suspended, and her name will be placed upon a doubtful card.

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George Amos Mayfield, recalled, testified:
Mr. Hastings: You applied to the Commission for enrollment?
A Yes, sir.
Q Have you been enrolled on a straight card? A I can't tell you, I applied at Muskogee.
Q Did they reject you? A I don't know whether they did or not.
Q Your name isn't on the 1880 roll? A I think it is.
Mr. Faulds: You go by the name of Boss Mayfield sometimes don't you?
A No, sir, just the two names, George Mayfield and Amos Mayfield. George Amos Mayfield is listed on Cherokee Freedmen rejected card No. 5.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 18th of April, 1901.

Commissioner.

SUPPLEMENTAL: D 91, Sallie Mayfield.

Department of the Interior,
Commission to the Five Civilized Tribes,
at Gibson, I.T., April 20,1901.

In the matter of the application of Sallie Mayfield for enrollment as a Cherokee Freedman;
G.W.Vann, being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A G.W.Vann.
Q Eighty-seven years old? A Yes sir.
Q Post-office Benge? A Yes sir.
Q Are you the G.W.Vann who testified in the case of Sallie Mayfield on April 12th, 1901? A Yes sir, and the only one that's A
Q In your testimony given on that day, you stated you are living in Sequoyah District and sometimes Tahlequah? A Yes sir.
Q You state you knew that Sallie Mayfield returned to the Indian Territory in 1866? A Yes sir.
Q Do you desire to rectify that statement? A I do, sir, because it was in '70, because I was cutting wood, and I quit clearing below the rest there which went over the line and went to waiting on Colonel McCloud, and when she come to my-- she lived with my sisters and they took them all together into Texas.
Q When was the next time you saw Sallie Mayfield? A I saw her from '70.
Q When was the first time you saw her after the Civil war? A About '70 is the first time ever I saw her.
Q You are satisfied now on reflection that the testimony you gave, stating that you saw her in '66 was a mistake? A Yes sir.
Q And that it was '70 instead of '66? A That's it; that's all the correction there is about it.
Q And you desire to rectify and recall your testimony of that day?
A Yes sir.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof/

M D Green

Subscribed and sworn to before me this April 22,1901.

Commissioner.

C.F. D-91.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Houston West for enrollment as a Cherokee Freedman.

Testimony on behalf of Cherokee Nation.

Appearances:
Applicant not present;
W. W. Hastings, of counsel for Cherokee Nation.

Commissioner: Attorneys for Cherokee Nation make proof of service of notice that they will introduce testimony in this case on September 4, 1901.

W. T. HARNAGE, being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A W. T. Harnage.
Q What is your postoffice? A Tahlequah.
Q What is your age? A About 53.
Q You a Cherokee citizen by blood? A Yes, sir.
Q I believe you made a statement that you returned here in December of 1866, after the war? A Yes, sir.
Q To what part of the Cherokee Nation did you come? A Sequoyah district.
Q How far did you locate from Fort Smith? A Just across the river, about half a mile from the line.
Q What relation are you to Zeke Harnage? A Half brother.
Q Is he older or younger than you? A He is older.
Q Did you know Walk Mayfield? A Yes, sir.
Q What relation is he to you? A He is my uncle.
Q How long did you continue to remain down there in Sequoyah district immediately after you came? A I stayed there in the bottom until after Christmas, then I went up to Flint.
Q You stayed there until after Christmas of '66? A Yes, sir.
Q About the first of January? A About the first of January sometime.
Q Now did your uncle Walker Mayfield return when you lived there?
A No, sir.
Q Now how long did you remain up in Flint? A I stayed up there till about the middle of April and went back down in the bottom.
Q And when you came back had he returned then? A Yes, sir, he was there then when I went back to the bottom.
Q That was in April of what year? A '67.
Q But when you left there after Christmas of '66, about January, he hadn't come? A No, sir, he hadn't come in, we left him in Texas in the fall of '66.
Q You left him there? A Yes, sir.
Q Had he made a crop there in Texas that year? A Yes, sir.
Q You know what kind of a crop, cotton and corn? A Corn and cotton.
Q Well, how far did he locate from your place and from the place that you had occupied when you returned there in April of '67?
A About five miles.
Q He was your uncle? A Yes, sir.
Commissioner: He came there you say in April, '67? A I came back to the bottom in April '67 and he was there when I came.
Q Walker Mayfield was? A Yes, sir.
Q You know what he came there? A Yes, sir, he came after I left, I left the bottom in January, '67, and went up to my uncle's in Flint

and stayed there till April.
Q And he wasn't there when you left? A No, sir, but when I got back there, he was there.
Q What brings it to your memory that it was in '67? A Because it was in '66 when we came there, in the fall, and I stayed there till that Christmas.
Q You are positive of that? A Yes, sir, and after Christmas I went to Flint.
Q Couldn't have Walker Mayfield come to the Cherokee Nation before that date; you don't know when he actually did come, do you?
A No, sir, he wasn't there when I left.
Q He wasn't, you mean, on this place? A No, sir.
Q But you don't know whether he was in any other part of the Cherokee Nation when you left? A No, sir, I don't know whether he was.
Q The first time you saw him was in April, '67? A Yes, sir.
Mr. Hastings: I believe you stated you left him in Texas when you came up here? A Yes, sir, we left him in Texas when we started.
Commissioner: When was that? A In December, in November, '66.
Q He was living there then? A Yes, sir.
Q Did he bring his old slaves with him when he came back?
A Yes, sir.
Q Did you know Houston West? A Yes, sir.
Q When did you first see Houston West? A I saw them all together at that time.
Q Was Houston West in Texas when you left there? A Yes, sir.
Q Living on Mayfield's farm? A Yes, sir.
Q They made a crop there? A Yes, sir.
Q What kind of crop? A Corn and cotton.

EZEKIEL HARNAGE, being duly sworn by Commissioner Needles, testified as follows:
Mr. Hastings: What is your name? A Ezekiel Harnage.
Q What is your postoffice? A Foyil.
Q What is your age? A 39 years old.
Q You are a Cherokee citizen? A Yes, sir.
Q You were in Texas when the war closed, were you? A Yes, sir.
Q Now when did you return to the Cherokee Nation? A I came back on the 16th day of December, 1866.
Q Now to what part of the Cherokee Nation did you come? A Sequoyah District.
Q What relation were you to Walk Mayfield? A He was my second cousin; he was a first cousin of my mother's.
Q You and this other witness are half brothers? A Yes, sir.
Q Different mothers? A Yes, sir.
Q Now you came back, I believe you say, to Sequoyah District?
A Yes, sir.
Q Now you know Walk Mayfield, do you? A Oh yes.
Q Did you see him in Texas? A Yes, I saw him in Texas.
Q How far did you live from him down there, or did he from you?
A About a couple of miles, or hardly that far.
Q Did you leave him, or he leave you there? A I left him there.
Q You moved up there in Sequoyah about December 18, 1866?
A Yes, sir.
Q Now what time did Walk Mayfield come to the Cherokee Nation?
A To the best of my knowledge Walker Mayfield came there along in the latter part of March, 1867.
Q Did he bring his slaves with him? A Yes, sir.
Q Did you know Houston West? A Yes, sir.
Q He had some boys, Houston, Callis and George? A Yes, sir.
Q Did you continue to reside there in Sequoyah District from December 18 up until the following April, March or April?
A Oh yes, I was there all the while.
Q About how far did Walk Mayfield locate from you when he came?

A I guess it was four miles and a half, or five.

Commissioner: Did you know Houston West? A Yes, I knew them boys.

Q Did he have a sister named Mary? A I don't know anything about the girls.

Q Well, Houston West was a slave of Walk Mayfield? A Yes.

Q When did you first see Houston, after the war? A I saw him after the war, after Mayfield came back to the Nation.

Q With Mayfield's family? A Yes, sir.

Q Are you positive Mayfield didn't come back to the Cherokee Nation until after January, 1867? A I am positive of it.

Q Is he living? A No, he is dead.

Q His wife living? A No, she is dead.

Q What fact fixes the date of Mayfield's return in your mind?

A The fact of the business is, the fact that fixes it in my mind was about going to work to make a crop.

Q Well, as to the year? A Oh, I know when I moved, and Walk Mayfield come the next spring like.

Q You know that you came in '66? A I know that, I am positive of the fact.

Q Where were you living in '65? A In Texas.

D. M. FALKNER, being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A D. M. Falkner.

Q What is your age, Mr. Falkner? A I am about 60.

Q What is your postoffice address? A Hanson, Indian Territory.

Q You a Cherokee by blood? A Yes, sir.

Q Mr. Falkner, you have been married, I believe, the second time?

A Yes, sir.

Q What was your first wife's name? A Her name was Rachel L. Adair.

Q That was her maiden name? A Yes, sir.

Q Was she any relation to Walker Mayfield? A Yes, sir, she claimed that Mayfield was her uncle.

Q Did you know Walk Mayfield yourself? A Yes, sir.

Q Where were you living in the year of '66 and the spring of '67?

A I was living in Sequoyah district, Cherokee Nation.

Q Did you know Walk Mayfield before the war? A Yes, sir.

Q When did Walk Mayfield return to the Cherokee Nation after the war? A Well, he returned about the first week of April, 1867.

Q Now Mr. Falkner, tell the Commission why you fix that time, all the circumstances? A Well, this young lady that I spoke of — Q That you afterwards married? A Yes, she was boarding with my sister, teaching school, and she came from Texas, just from Texas, and I went with her over there, that is about the first part of April, the first week, or the first of April, 1867, when we came, and they claimed they had just come in. Q Well, now for fear it that you are to go? A Four miles, and when I went with her over there, and the reason why I am so positive about it, we and her was married about ten or fifteen days after that; that is, this young lady

Q Your first wife? A Yes, my first wife.

Q Rachel L. Adair? A Yes, sir, and I have got it in the bible at home, the statement, we were married about a week or fifteen days after he came, and I think it is dated on the seven of April, on the 7th of April, when we and her were married, and just a few days before that is what me and her went over there.

Q That is her maiden, Walk Mayfield? A Yes, sir.

Q You had heard of him coming from Texas? A Yes, and you went over there to see him, and they had just come in? A That is what they claimed, they had just come in.

Q You hadn't heard of him before that? A No, sir.
Q Did they have some slaves, colored people, with them?
A Yes, sir, they had some there, of course I wasn't acquainted with the slaves, but there was an old man named Henry West, and I have known him ever since; they claimed he had brought in his slaves, and that old man was all I seen.
Q Had they unloaded the wagons when you got there? A There was a covered wagon standing there at the house when we got there.
Commissioner: What year were you first married, Mr. Falkner?
A It was in April, '67.
Q You are positive of that? A Yes, sir, I have got it in the bible at home.
Q You didn't know Henry West, a slave? A No, sir, I didn't know him, they told me them was his darkies, all I know.
Q You don't know of Walker Mayfield coming into the Territory before that time at some other point? A No, sir, that is the only time I heard about it, and I lived by him before the war.
Mr. Hastings: Your first wife is dead? A Yes, sir, she is dead.
Commissioner: Walker Mayfield dead? A Yes, sir.
Q His wife dead? A Yes, sir.
Q Any of his children living? A Well, I don't know, no, sir, all dead; he had three boys and they are all dead.
Q How far is this Walker Mayfield place, where he came to, from the Cherokee line? A It is about four miles and a half, or five; they crossed there at Fort Smith I suppose, to go to that place.
Q Four or five miles from that place to Fort Smith? A Yes, sir.
Q Coming from Texas then that would be the first place they would strike in the Territory? A Yes, sir.
Q There is where they all crossed? A Yes, sir.
Q Were you down in Texas? A No sir, I was at Skulleyville, across the river there, in '65 and '66; '66 I moved over with my sister.

Commissioner: This testimony will be made part of the record in the cases of Callis West, D-1000, and George West, D-990.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 6th of September, 1901.

C. R. Breckinridge

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T. September, 5th 1901.

SUPPLEMENTAL ORDER IN THE CASE OF SALLIE MAYFIELD, C.F.D.#91.

By W. W. Hastings, Cherokee Representative:

In the case of Sallie Mayfield, D-91, the testimony in her case shows that she belonged to Sallie Mayfield and that she returned with Walker Mayfield, and the representatives of the Cherokee Nation ask that the testimony of Mark Bean and L. B. Bell taken in the case of Hannah West, F.D. #43 on September 4th 1901, as to Sallie Mayfield's citizenship and residence at the beginning of the war, be made a part of the record in this case.

Also that the testimony of W. T. Harnage, Ezekial Harnage and D. M. Falkner taken in the case of Houston West, F. D. #989 on September 4th 1901, be made a part of he record in this case.

By Com'r C. R. Breckinridge:

It is rodered that copies of the testimony enumerated, be filed in the case of Sallie Mayfield, C. F. D. #91, and and also that a copy of this order will likewise be filed with the papers in the case.

* * * * * * * * * * * * *

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes, he reported in full all the proceedings in the above order and that the foregoing is a true and complete ~~se~~ transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this 7th of September, 1901.

Commissioner.

M D Green
MP

To be filed with the case of Sallie Mayfield, C. F. D. 91.

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Department of the Interior,
Commissions to the Five Civilized Tribes,
Fort Gibson, I. T., September 4,1901.

In the matter of the application of Hannah West, et al. for enrollment as Cherokee Freedmen-

Testimony introduced on behalf of Cherokee Nation.

APPEARANCES:
Applicant not present.
W.W.Hastings, of counsel for Cherokee Nation.

COMMISSIONER: Proof of notice to applicant filed, notifying her that this testimony will be taken September 4,1901. Applicant fails to appear either herself or attorney.

MARK BEAN, being duly sworn by Commissioner Needles, testified as follows:
(By Mr. Hastings) What is your name? A. Mark Bean.
Q What is your age? A. 58.
Q Your postoffice? A. Evansville, Arkansas.
Q You a Cherokee by blood? A. Yes sir.
Q Do you know Sallie Mayfield, who was formerly a citizen of the Cherokee Nation? A Yes sir.
Q Where did she live when you first knew her? A. She lived in Flint District, Cherokee Nation.
Q What was her husband's name? A Jesse Mayfield.
Q Do you know whether or not she owned a colored woman by th name of Hannah West? A No, I dont know that.
Q Well, was Sallie Mayfield living in Flint District when the war came up? A No sir.
Q Where was she? A. She was living in Russ county, Texas.
Q How long had she been gone from this country when the war broke out? A She left Flint district in about 1847.
Q Where did she go from Flint district; did she go direct to Texas? A Direct to Texas.
Q She never returned here until after the war? A. No sir, excepting on visits.
Q Have a home in Texas? A. Home in Texas.
Q Staying in Texas? A. Staying in Texas.
(Commissioner) Did she ever remove to the Cherokee Nation afterwards? A Yes sir.
Q When? A. She moved back in about '68 or '9.
Q Was she readmitted to Cherokee citizenship then? A. I think she was
Q Do you know a slave of hers named Hannah? A. I dont recollect.
Q You dont know then whether Hannah West was a slave of Sallie Mayfield or not? A. No sir.
Q You dont know anything about the return of Hannah West then? A. No sir.

L. B. BELL, being duly sworn by Commissioner Needles, testified as follows-
Q What is your name? A. L. B. Bell.
Q What is your age? A. 68, nearly 69.
Q What is your postoffice? A. Vinita.
Q Do you know Sallie Mayfield, who was once a citizen of the Cherokee Nation before the war? A. Yes sir.
Q When did you know her? A. Well, I guess about as far back as I can recollect, knew her nearly continuously from the time, say '43 or '45 up to when she died; there was a little skip in my seeing her from 1847 till '65.

Q Well, do you know where she lived after 1847? A Well in ~~1846~~ 1847 she lived up there in Flint District, Cherokee Nation, and he disturbance brought about here arising out of the treaty of 1835, they moved across the line to Arkansas for a little while and then went back to Texas.
Q Did they come here after the went? A. They went to Ross County, Texas and lived there ~~four~~ from that time till '55, and then I went to Texas that is, members of our family, kin folks, and I staid down there and knew about all along from that day till she came here and staid a while and died; she lived there from '47 continuously till about '67 or '8.
Q Have a home there in Texas? A. Yes, they had a home.
Q Recognised citizens of Texas? A. Was a cotton planter, had looked like 75 or 100 negroes.
Q Husband and family lived there? A. Yes, the old man and wife and son and three or four daughters.
( Commissioner ) They returned to the Cherokee Nation in '67 or '8?
A Yes, she was here in '67 or '8.
Q Were they re-admitted to Cherokee citizenship? A Along somewhere in after 1880.
Q Do you know Hannah West? A. No sir, I didn't know the negroes, there was too many to know.

= = = = = = = = = = = = =

Bruce C. Jones, being duly sworn, says hat as stenographer to the Commission to the Five Civilised Tribes he correctly recorded th proceedings and testimony in the above case, and the foregoing is a true and correct transcript from his stenographic notes thereof.

( Signed ) Bruce C. Jones.

Sworn to and subscribed before me this the 6th of September, 1901.

(Signed ) C. R. Breckinridge.

Commissioner.

$$$$$$$$$$$$$$$$

I, Chas. von Weise, upon my oath state hat the above is a true copy of the original

Chas von Weise

Subscribed and sworn to before me this 9th of September, 1901.

M D Green
MP

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Sallie Mayfield, et al., as Cherokee Freedmen, consolidating the applications of--

| | |
|---|---|
| Sallie Mayfield, | Cherokee Freedmen D- 91, |
| Thomas Mayfield, et al., | Cherokee Freedmen D-124, |
| Amberry Mayfield, et al., | Cherokee Freedmen D-131. |

DECISION.

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The record herein shows that applications for enrollment as Cherokee freedmen were made to this Commission by Sallie Mayfield for herself; by Thomas Mayfield for himself, his wife, Ella Mayfield, and his minor children, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas and Leonard Mayfield; the said Ella Mayfield claims only as an intermarried freedman and her rights are not passed on in this decision; and by Amberry Mayfield for himself and his minor daughter, Sallie Mayfield. A copy of the testimony of Mark Beam and L. B. Bell in Cherokee Freedmen D-43, and a copy of the testimony of W. T. Harnage, Ezekiel Harnage and D. M. Falkner in Cherokee Freedmen D-989, taken at Fort Gibson, Indian Territory, September 4, 1901, are filed herewith and made a part of the record in this case.

The evidence herein shows that the Sallie Mayfield and Thomas Mayfield first mentioned above are mother and son, and that they were both at one time the slaves of one Sallie Mayfield, who was a Cherokee citizen but who, prior to the commencement of the rebellion, removed to the State of Texas taking these two applicants with her and established a residence in said State; that the applicants, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas and Leonard Mayfield, are the minor children of the said Thomas Mayfield first mentioned above, and claim their right to enrollment through him; that the said Amberry Mayfield is a son of the said Sallie Mayfield first mentioned above, was born since the commencement of the rebellion, and therefore claims his right to enrollment through his mother, and the said Sallie Mayfield is the minor daughter of said Amberry Mayfield and claims her right to enrollment through her father.

It further appears from the evidence herein that neither the said Sallie Mayfield nor Thomas Mayfield first mentioned above

returned to and established a residence in the Cherokee Nation within the time specified in the decree of the Court of Claims rendered on February 5, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation.

It further appears that the names of none of the applicants herein appear upon the 1880 authenticated Cherokee Roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Sallie Mayfield, Thomas Mayfield, her son; Milert Mayfield, Houston Mayfield, John Mayfield, Cornelia Mayfield, Fannie Mayfield, Hattie Mayfield, Emmett Mayfield, Thomas Mayfield and Leonard Mayfield, the children of said Thomas Mayfield; Emberry Mayfield and his daughter, Sallie Mayfield, as Cherokee freedmen should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chairman.

Commissioner

Commissioner.

Muskogee, Indian Territory,

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
RECEIVED
SEP 5 1901

No. 91.

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on

by delivering a true copy thereof on the 4 day of [illegible] A. D. 1901.

Given under my hand this [illegible] day [illegible] A. D. 1901.

[illegible]
Marshal for Cherokee Nation.

---

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the day of , 1901.

Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to

on the day of , A.D. 1901

Subscribed and sworn to before me this day of A.D. 1901.

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DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 5 1901

[illegible]
ACTING CHAIRMAN

# NOTICE!

*IN THE MATTER OF* The application of Sallie Mayfield for enrollment as a Cherokee Freedman:

Case No. F. D. 91

To Sallie Mayfield, Fort Gibson I. T.

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Ft Gibson Indian Territory, on the following dates, to-wit: Sept 4th 1901. A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 28th day of August, 1901.

L B Bell

W W Hastings

J S Davenport

*Attorneys for the Cherokee Nation.*

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Sallie Mayfield,
Ft. Gibson, I.T.
Cherokee F-D-91
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

MEMORANDUM OF APPLICATION.

Case commenced April 2nd 1901
Continued

# CHEROKEE FREEDMEN.

Date APR 17 1901.

Post Office Fort Gibson

District Lego —

1. Name Sallie Mayfield Age 60 —

Owner's name Mrs Sallie Mayfield Citizenship Cherokee

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

2. Name of wife ..... Age .....

Owners name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

Names of Children:

3. ..... Year ..... Page ..... No. ..... Dist. .....
4. ..... Year ..... Page ..... No. ..... Dist. .....
5. ..... Year ..... Page ..... No. ..... Dist. .....
6. ..... Year ..... Page ..... No. ..... Dist. .....
7. ..... Year ..... Page ..... No. ..... Dist. .....
8. ..... Year ..... Page ..... No. ..... Dist. .....
9. ..... Year ..... Page ..... No. ..... Dist. .....
10. ..... Year ..... Page ..... No. ..... Dist. .....
11. ..... Year ..... Page ..... No. ..... Dist. .....
12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by Mrs Mayfield Stenographer Ramsey J. C. Apr.

Additional Testimony: — Jones D. C. Apr.

1/2/9

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
APR 27 1901

ACTING CHAIRMAN

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BREDENRIDDE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Ft. Gibson, Ind. Ter. April 27 th., 1901.

Received of the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application for the enrollment of Sallie Mayfield, et al as citizens of the Cherokee Nation by adoption.

J. T. Tawes

Enc. 1 Bl.

COPY.

Cherokee Freedmen
D-91 et al.

Muskogee, Indian Territory, May 5, 1904.

A. S. McRea,
Representing J. F. Faulds,
Attorney for Sallie Mayfield et al.,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Sallie Mayfield et al., rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Mattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Register
D-330.

COPY.

Cherokee Freedmen
D-91.

Muskogee, Indian Territory, May 5, 1904.

Sallie Mayfield,

Fort Gibson, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, rejecting, among others, your application for enrollment as a Cherokee freedman. Your attorney, A. S. McRea, Muskogee, Indian Territory, has heretofore been furnished with a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Register

Enc. D-107.

COPY.

Cherokee Freedmen
D- 91 et al.

Muskogee, Indian Territory, May 5, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 30, 1904, in the consolidated case of Sallie Mayfield et al., rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Enc. D-311

Commissioner in Charge.

COPY.

Cherokee Freedmen
D-91 et al.

Muskogee, Indian Territory, May 5, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Sallie Mayfield et al., including the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Through the
Commissioner of Indian Affairs.

Enc. D-212.

Copy.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

Refer in reply to the following:
Land.
31068-1904.

Washington, June 13, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes, dated May 5, 1904, transmitting the records of the applications of Sallie Mayfield and Thomas Mayfield for himself and his nine minor children, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas and Leonard Mayfield, and Emberry Mayfield for himself and his minor child Sallie for enrollment as Cherokee Freedmen.

April 20, 1904, the Commission found that the applicants were not entitled to enrollment as Cherokee Freedmen.

The evidence shows that the applicant, Sallie Mayfield, was the slave of a Cherokee citizen who removed with her slaves and other effects in the year 1847, and became a citizen of the State of Texas; that the applicant, Sallie Mayfield did not return to the Cherokee Nation on or before February 11, 1867.

The Commission appears to be in error in stating that Thomas Mayfield who is the son of Sallie Mayfield was taken out of the Cherokee Nation by a Cherokee citizen for the reason that Sallie Mayfield herself was but six years of age when taken out of the Nation.

It is also shown that Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas Jr., Leonard, Emberry, and Sallie Mayfield are descendants of the applicant, Sallie Mayfield, no rights to enrollment except through her.

The names of none of the applicants are identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's action adverse to the applicants is recommended.

Very respectfully,

A. C. Tonner.

Acting Commissioner.

M.M.M.
W.

W.C.P.
J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

D.C. 21476-1904.
I.T.D. 4880-1904.
LRS.

June 21, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

May 5, 1904, you transmitted the record in the consolidated case embracing the applications of Sallie Mayfield, et al (F.D-91 et al), for enrollment as Cherokee freedmen, including your decision of April 20, 1904, rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Maberry and Sallie Mayfield.

Reporting June 13, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision in so far as it rejects the applicants, is affirmed.

Respectfully,

(Signed) E. A. Hitchcock,
Secretary.

1 inclosure.

Cherokee Freedmen
D 91

Muskogee, Indian Territory, June 30, 1904.

George A. Mayfield,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting, among others, your application for the enrollment of Sallie Mayfield, as a Cherokee freedman, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 91, et al.

Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Sallie, Thomas, Gilbert, Houston, John, Cumelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cher. Fr. R-408

Cher. Fr. R-408

See Cher. Fn R-407-9, D-124

J

To be filed in case of Thomas Mayfield Freed. D - 124.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., April 12th, 1901.

In the matter of the application of Sallie Mayfield for enrollment as a Cherokee Freedman; said Mayfield being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Sallie Mayfield.
Q How old are you, Sallie? A Well, to my recollection and judgment I am about 60 years of age.
Q What is your post office? A Gibson here.
Q What district do you ~~live~~ in? A Sequoyah here.
Q Do you apply to be enrolled as a Cherokee Freedman? A No, sir.
Q Who do you want to enroll? A I ain't been on any rolls as I knows of.
Q You apply to be enrolled now, do you, as a Cherokee Freedman?
A Yes, sir.
Q Did you ever apply to anyother Nation or tribe to be enrolled?
A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A No, sir.
Q Is your name on the roll of 1880? A No, sir.
Q Is your name on the roll of 1896? A Not on the roll nowhere as I know of.
Q Were you a slave? A Yes, sir.
Q Whom did you belong to? A Misses Mayfield.
Q Was she a Cherokee citizen? A Yes, sir.
Q Where were you at the beginning of the war? A They carried me out.
Q Where? A Carried me to Texas.
Q How long did you stay in Texas? A Just as soon as they told me peace was made I run away from there by night and come back here.
Q When was it you come back to the Cherokee Nation? A About '66.
Q Have you been living here ever since? A Ever since.
Q Who do you want to enroll besides yourself? A I got three boys.
Q What is the name of the oldest one? A Thomas Mayfield.
Q How old is he? A I tell you, just about how old he is, when I come back here in about three weeks I had him.

(All the children found to be of age, and applicant is ~~informed that they will have to apply for themselves.~~)

Q So you don't apply for anybody but yourself then? A No, sir.
Q Did you draw what is known as the strip payment money? A No, sir.
Q Never been recognized? A No, sir.

By J. S. Davenport, Cherokee Representative:

Q How long have you been going by the name of Sallie Mayfield?
A All my life.
Q Have you been married? A I married, but I married a Mayfield.
Q How, do you know what point you went to in Texas during the war?
A Went in West County.

Q Who went with you? A George Starr and young Jess Mayfield and Tom Mayfield.
Q Now, you came back after peace was declared? A Yes, sir.
Q You don't know how long it was after peace was declared? A I come back here about '66.
Q Was it before '66 or just after '66? A Just about '66.
Q I know you say it is about '66, you don't know when you did come, Aunt Sallie? A They told me;, I just tell you what month I come back in, in June or July.
Q Now then when you come back here did you find anyone you had known when you left here? A Henry West and Walter Mayfield.
Q Were they Cherokee citizens? A Yes, sir.
Q They were not Cherokee Freedmen? A Yes, sir. Old man George Vann went to Texas and after I went to Texas and stayed there with him a while because old George Mayfield carried two of his sisters out.
Q What was George Vann that lives in Sequoyah district? A Yes sir; after I come back sometimes when I wanted anything to eat I would go to Fort Smith and get what I wanted and come back.
Q How long did you live in Fort Smith? A Staid a week or so and come back to old George Vann's.
Q Are you related to George Vann? A No, sir.

By Commissioner T. B. Needles,

Q Have you got any witnesses here that know when you came back?
A Yes, sir; George Vann and Alleck Nivens.
Q Are they here? A I guess so, they ought to be.
Q Why was not your name on the roll of 1880? A I don't know. Of course my husband died just about the breaking up of the war and I had nobody to come back and I don't know nothing. They had this last roll up there and they didn't put me on, I don't know what was the cause.
Q they never let you draw any money? A No, sir.
Q Did you try to draw the strip money? A They said they never put my name on.

By J. S. Davenport:

Q You say you left the Indian Territory with George Starr?
A Yes, sir; Muss Mayfield left with George Starr, young Jess, and Tom Mayfield.
Q You came back to what district or what part of the Cherokee Nation? A I stopped in the Chickasaw Nation a while and I staid there, and when I went from there I went to Henry, I know him well because he raised me, old man, Henry West.
Q Now, George Starr he left the Cherokee Nation the year before the war was declared, didn't he? A Not's I know of.
Q You went with him? A Of course we got out of there because George did.
Q Were you there when George came? A Yes, sir.

By Commissioner Needles-:

Q Was that before the war or after the war? A During the war.

(By request of Attorney for Applicant this case is continued until a later date.)

J. G. Rosson, being first duly sworn, states that as Stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. G. Rosson.

Subscribed and sworn to before me this 17th day of April, 1905

C. R. Breckinridge,
Commissioner.

Maggie Kennedy, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, she made the above and foregoing copy and that the same is a true and correct copy of the original transcript.

Maggie Kennedy.

Subscribed and sworn to before me this the 24 day of January 1906.

Notary Public.

Sallie Mayfield -4.

Testimony heard April 17, 1901.

George Amos Mayfield, being duly sworn and examined by Commissioner Needles, testified as follows:
Q What is your name? A George Amos Mayfield.
Q What is your age? A About 50.
Q What is your postoffice? A You might say Muskogee.
By J. F. Faulds, attorney for applicant: Are you acquainted with Sallie Mayfield? A Yes, sir.
Q The one who has applied here for enrollment? A Yes, sir.
Q Did you know her before the war? A Yes, sir.
Q And during the war? A Yes, sir.
Q Do you know if she was a slave? A Yes, sir, she was a slave.
Q To whom did she belong? A Miss Sallie Mayfield.
Q Do you know whether she left here during the war, after the war had begun? A Somewheres along about that time.
Q And do you know when she came back? A Yes, sir.
Q When? A Along about 1866 she came down to old man Walk Mayfield's place.
Q She has been here ever since? A Been arouns and about first one place and then the other; first one district and the other, along up there in Webbers Falls, first one place and another and back to Fort Smith getting grub and one thing and another for her children.
Q You are a Cherokee Freedman, are you? A Yes, sir.
Mr. J. S. Davenport, attorney for Cherokee Nation: Where were you during the war? A My folks before the war?
Q Where were you? A They taken me and carried me away to Texas.
Q How long did you stay in Texas; about how long? A Four years I guess.
Q When did you come back from Texas? A I came back about 1865.
Q Who did you come back with? A I came back with George Adair, him and Dick Fields.
Q Where was Salli Mayfield, the applicant at this time? A I don't know where she was.
Q Had you known Sallie Mayfield before the war? A Yes, sir.
Q Where had you known her? A I knowed her at my old home in Flint district.
Q How old was Sallie Mayfield when the war broke out? A I don't know.
Q Was she grown? A Yes, sir, grown and married.
Q When you came back from Texas, to what town did you come? A Came right here.
Q Did you find Salli Mayfield here when you came? A No, sir, I didn't find her here,
Q When did you next see Sallie Mayfield when you came back from Texas? A I seen her along, I can't say the month, I can't exactly tell; it was somewheres in the spring.
Q Now then what year did you come back from Texas? A I came back in 1865.
Q What time of the year 1865? A We started in March to come, and I got to the Creek Nation the last part of the month.
Q You came back then before peace was declared? A Yes, sir, I came back and came back in the Creek Nation the last part of March and I cropped with Mr. Fields.

Q Dick Fields? A Yes, sir, and Judge Adair.
Q Judge Adair in the Choctaw Nation? A No, sir, don't give me the Choctaw Nation, give me the Creek Nation.
Q That was in 1865? A Yes, sir.
Q Now then you came on back to the Cherokee Nation when? A In 1865.
Q And you have resided continuously here? A Continuously backwards and forwards.
Q When did Sallie come back to the Cherokee Nation, if she ever came back? A Well she came back all right enough.
Q When was it? A I can't tell you the exact time when she came back, I didn't see her when she came back, I seen her after she came back.
Q When did you see her? A Along about 1866 when I seen her.
Q How do you know it was along in 1866? A I was talking with Judge Adair about it myself and Mr. Fields, and they told me themselves.
Q They told you themselves it was about 1866? A Didn't say 1865 or 1867, but about 1866? A No, sir, I just asked them about what time it was.
Q She came to what point when she came back? A I seen her this side of Fort Smith, this side of old man Henry Mayfield; I was living here and happened to be down in this country.
Q How long did she live in Fort Smith before she came into the Nation? A I don't know.
Q You were living in Fort Gibson and she was living down there? A Yes sir.
Q And you don't remember what year it was you saw her down there? A No, sir, I don't exactly remember, but it was in 1866 so I was told myself.
Q That fellow that told you is dead too isn't he? A Yes, sir.
Q You were grown at that time, wasn't you? A I must have been.
Q You know, don't you? A Yes, sir, I was just about grown.
Q Do you want to be understood that you don't remember whether it was 1866 or what year it was you saw this woman down there you had known before the war? A No, sir, I want to be understood it was 1866 I seen her.
Q You know it was 1866 you seen her? A Yes, sir.
Q And you were living near Fort Gibson and she in the southern part of the Nation? A Yes, sir, I happened to go down that way and happened to seen her; I was first here and then there, I didn't stay in once place all the time.
Q Where did Sallie Mayfield live when she returned to the Cherokee Nation? A She lived out here on the Canadian, she is living on the ~~Canadian out on the bayou here in Illinois~~ district now.
Q Has she resided continuously in the Cherokee Nation since she returned? .A Yes, sir.
Q Don't you know she lived in Muskogee about ten years? A No, sir.
Q Have you known her continuously since she returned? A Yes, sir.
Q And known her to be living in the Cherokee Nation all the time? A Yes, sir, she has been in Muskogee, I have seen her there.
Q And she has lived there too you know? A No, sir, I know she has come to Muskogee.
Q The fact of the business is you ########## don't know where she has lived all the time? A No, sir, not all the time.

Mr. W. W. Hastings, attorney for Cherokee Nation: Did you know the applicant Sallie Mayfield when the war broke out? A I did.

Q Where was she then living? A She was living in Flint District, so I heard.
Q Was she living there? A She had been living there.
Q Do you swear it? A Well I can swear it.
Q Do you do that? A Yes, sir.
Q The Henry Mayfield you referred to is the same man known as Henry West that belonged to Walk Mayfield, Sequoyah district? A Yes, sir.
Q He was back there before this applicant, Sallie Mayfield, returned? A Yes, sir, he was there.
Q Walk Mayfield was also down there, was he, at the time she returned? A Yes, sir.
Mr. Faulds- Do you remember where you first saw her in the Cherokee Nation? A At Walk Mayfield's place.
Mr. Hastings: And he was there? A Walk, I think Walk was there, but old man Henry Mayfield was there himself, the old colored man that he owned.
Q Known as Henry West? A Yes sir.

G. W. Vann, being duly sworn and examined by Commissioner Needles, testified as follows:
Q What is your name? A G. W. Vann.
Q What is your age? A I will soon be 87.
Q What is your postoffice address? A Benge.
Q Are you a recognized Cherokee Freedman? A I think not; they have been fighting me ever since I have been here.
Mr. Faulds: Where were you in 1861 when the war broke out, Mr. Vann? A I was in Sequoyah district, sometime at Fort Gibson.
Q Did you know at that time Sallie Mayfield, the applicant for enrollment. A I did.
Q Where was she living at that time? A Part of the time she was somewhere up here in Flint, but when she started to go off she was in Sequoyah district; she taken two of my sisters with her, old Miss Mayfield.
Q Do you know where they went? A Texas they say, I didn't follow them.
Q Do you know whether she was a slave at that time? A I do.
Q To whom did she belong? A Old Mrs. Mayfield.
Q Where were you living in 1866? A Sequoyah; sometimes here at Fort Gibson, sometimes at Tahlequah.
Q Do you know if she came back in that year? A She came here in August, 1866, right along in August.
Q Has she been here ever since? A I don't know, I have seen her sometimes, and sometimes I haven't.
Mr. Hastings- Where did you see her in August of 1866? A I was here down by old Henry Mayfield's, a negro that belonged to Walk Mayfield.
Q Known as Henry West? A Yes, sir.
Q In August of 1866? A Yes, sir.
Q To what Mayfield did this applicant, Sallie Mayfield, belong before the war? A Belonged to old Miss Matfield.
Q What was her first name? A I don't know; why her name was Betsy; I beliebe her name was Sallie, I am not certain.
Q What was her husband's name? A Old man Mayfield.
Q Yes. A I am not certain, I believe his name was Bill.
Q Where did he live? A Lived on Blackburn Prairie, up from the river right on the prairie.

Q In what district? A Sequoyah.
Q He lived there when the war broke out? A No, there is where they started from when they went to Texas.
Q When did they start to Texas? A Right along when the war began to get pretty hot.
Q Just at the beginning of the war? A No, sir, it was just after the beginning, it had been going on sometime.
Q 1862 or 63? A No, sir, it wasn't sixty at all.
Q About what year? A Well, sir, that is a little farther than I know, I didn't take any particular notice what time they started, there was nothing particular to call my attention to it.
Q It was after the war of the rebellion had started up that old Miss Mayfield went to Texas? A Yes, sir, and taken two of my sisters
Q Her husband was alive then, old Miss Mayfield's husband? A I think not.
Q Did you know him? A Well I knowed him when he was alive, but I think not.
Q How long had you known him before that? A I had known him a long time.
Q How long had it been just before that that you had known he was living? A He lived in the years when I known him, but in the time of the rebellion they was running around about and I paid no attention till when they started off with my two sisters, and then I went to see them when they left.
Q You were there when they left? A Yes, sir.
Q And you don't remember whether they were alive or not? A No, sir, I don't remember; there were so many taking their negroes to Texas I think he was dead, I don't think he was alive.
Q You are certain it was after the war commenced? A Yes, sir, because they taken my two sisters with them.

Commissioner Needles: The name of Sallie Mayfield is not found on the authenticated roll of 1880, or the Census roll of 1896. Final judgment as to her enrollment as a Cherokee Freedman will be suspended, and her name will be placed upon a doubtful card.

George Amos Mayfield, recalled, testified:
Mr. Hastings: You applied to the Commission for enrollment?
A Yes, sir.
Q Have you been enrolled on a straight card? A I can't tell you, I applied at Muskogee.
Q Did they reject you? A I don't know whether they did or not.
Q Your name isn't on the 1880 roll? A I think it is.
Mr. Faulds: You go by the name of Boss Mayfield sometimes don't you
Q No, sir, just the two names, George Mayfield and Amos Mayfield.
George Amos Mayfield is listed on Cherokee Freedmen rejected card No. 5.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this the 18th ### of April, 1901

Sallie Mayfield -S.

C. R. Breckinridge,
Commissioner.

The undersigned, being duly sworn, ###### #### #s stenographer to the Commission to the Five Civilized Tribes, says that the above and foregoing is a true and correct copy of the original testimony and proceedings in the case of Sallie Mayfield; said original transcript having been made by J. O. Rosson and Bruce C. Jones, as stenographers

(Signed) E. E. Rothenberger.

Subscribed and sworn to before me this 27th day of April, 1901.

(Signed) T. B. Needles
Commissioner.

Maggie Kennedy, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes, she made the above and foregoing copy and that the same is a true and correct copy of the original transcript.

Maggie Kennedy

Subscribed and sworn to before me this the 28 day of January

J. M. Campbell
Notary Public.

To be filed in case of Thomas Mayfield Freed. D - 124.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., April 12th, 1901.

In the matter of the application of Sallie Mayfield for enrollment as a Cherokee Freedman; said Mayfield being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Sallie Mayfield.
Q How old are you, Sallie? A Well, to my recollection and judgment I am about 60 years of age.
Q What is your post office? A Gibson here.
Q What district do you live in? A Sequoyah here.
Q Do you apply to be enrolled as a Cherokee Freedman? A No, sir.
Q Who do you want to enroll? A I ain't been on any rolls as I knows of.
Q You apply to be enrolled now, do you, as a Cherokee Freedman?
A Yes, sir.
Q Did you ever apply to anyother Nation or tribe to be enrolled?
A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A No, sir.
Q Is your name on the roll of 1880? A No, sir.
Q Is your name on the roll of 1896? A Not on the roll nowhere as I know of.
Q Were you a slave? A Yes, sir.
Q Whom did you belong to? A Misses Mayfield.
Q Was she a Cherokee citizen? A Yes, sir.
Q Where were you at the beginning of the war? A They carried me out.
Q Where? A Carried me to Texas.
Q How long did you stay in Texas? A Just as soon as they told me peace was made I run away from there by night and come back here.
Q When was it you come back to the Cherokee Nation? A About '66.
Q Have you been living here ever since? A Ever since.
Q Who do you want to enroll besides yourself? A I got three boys.
Q What is the name of the oldest one? A Thomas Mayfield.
Q How old is he? A I tell you, just about how old he is, when I come back here in about three weeks I had him.
(All the children found to be of age, and applicant is informed that they will have to apply for themselves.)
Q So you don't apply for anybody but yourself them? A No, sir.
Q Did you draw what is known as the strip payment money? A No, sir.
Q Never been recognized? A No, sir.

BY J. S. Davenport, Cherokee Representative:

Q How long have you been going by the name of Sallie Mayfield?
A All my life.
Q Have you been married? A I married, but I married a Mayfield.
Q Now, do you know what point you went to in Texas during the war?
A Went in West County.
Q Who went with you? A George Starr and young Jess Mayfield and Tom Mayfield.
Q Now, you came back after peace was declared? A Yes, sir.
Q You don't know how long it was after peace was declared? A I come back here about '66.
Q Was it before '66 or just after '66? A Just about '66.
Q I know you say it is about '66, you don't know when you did come, aunt Sallie? A They told me; I just tell you what month I come back in, in June or July.
Q Now then when you came back here did you find anyone you had known when you left here? A Henry Neal and Walter Mayfield.

Q Were they Cherokee citizens? A Yes, sir.
Q They were not Cherokee Freedmen?m A Yes, sir. Old man George Vann went to Texas and after I went to Texas and stayed there with him a while because old George Mayfield carried two of his sisters out.
Q What was George Vann that lives in Sequoyah district? A Yes, sir; after I come back sometimes when I wanted anything to eat I would go to Fort Smith and get what I wanted and come back.
Q How long did you live in Fort Smith? A Staid a week or so and come back to old George Vann's.
Q, Are you related to George Vann? A No, sir.

By Commissioner T. B. Needles,

Q Have you got any witnesses here that know when you came back? A Yes, sir; George Vann and Alleck Nivens.
Q Are they here? A I guess so, they ought to be.
Q Why was not your name on the roll of 1880? A I don't know. Of course my husband died just about the breaking up of the war and I had nobody to come back and I don't know nothing. They had this last roll up there and they didn't put me on, I don't know what was the cause.
Q They never let you draw any money? A No, sir.
Q Did you try to draw the strip money? A They said they never put my name on.

By J. S. Davenport:

Q You say you left the Indian Territory with George Starr? A Yes,sir; Muss Mayfield left with George Starr, young Jess, and Tom Mayfield.
Q You came back to what district or what part of the Cherokee Nation? A I stopped in the Chickasaw Nation a while and I staid there, and when I went from there I went to Henry, I know him well because he raised me, old man, Henry West.
Q Now, George Starr he left the Cherokee Nation the year before the war was declared, didn't he? A Not's I know of.
Q You went with him? A Of course we got out of there because George did.
Q Were you there when George came? A Yes, sir.

By Commissioner Needles-:

Q Was that before the war or after the war? A During the war.

(By request of Attorney for Applicant this case is continued until a later date.)

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson.

Subscribed and sworn to before me this 17th day of April, 1901.

C. R. Breckinridge,
Commissioner.

Testimony heard April 17, 1901.

******* *********

George Amos Mayfield, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A George Amos Mayfield.
Q What is your age? A About 50.
Q What is your postoffice? A You might say Muskogee.
By J. F. Faulds, attorney for applicant+ Are you acquainted with Sallie Mayfield? A Yes, sir.
Q The one who has applied here for enrollment? A Yes, sir.
Q Did you know her before the war? A Yes, sir.
Q And during the war? A Yes, sir.
Q Do you know if she was a slave? A Yes, sir, she was a slave.
Q To whom did she belong? A Miss Sallie Mayfield.
Q Do you know whether she left here during the war, after the war had begun? A Somewheres along about that time.
Q And do you know when she came back? A Yes, sir.
Q When? A Along about 1866 she came down to old man Walk Mayfield's place.
Q She has been here ever since? A Been aroums and about first one place and then the other; first one district and the other, along up there in Webbers Falls, first one place and another and back to Fort Smith getting grub and one thing and another for her children.
Q You are a Cherokee Freedman, are you? A Yes, sir.
Mr. J. S. Davenport, attorney for Cherokee Nation+ Where were you during the war? A My folks before the war?
Q Where were you? A They taken me and carried me away to Texas.
Q How long did you stay in Texas; about how long? A Four years I guess.
Q When did you come back from Texas? A I came back about 1865.
Q Who did you come back with? A I came back with George Adair, him and Dick Fields.
Q Where was Salli Mayfield, the applicant at this time? A I don't know where she was.
Q Had you known Sallie Mayfield before the war? A Yes, sir.
Q Where had you known her? A I knowed her at my old home in Flint district.
Q How old was Sallie Mayfield when the war broke out? A I don't know.
Q Was she grown? A Yes, sir, grown and married.
Q When you came back from Texas, to what town did you come? A Came right here.
Q Did you find Salli Mayfield here when you came? A No, sir, I didn't find her here.
Q When did you next see Sallie Mayfield when you came back from Texas? A I seen her along, I can't say the month, I can't exactly tell; it was somewheres in the spring.
Q Now then what year did you come back from Texas? A I came back in 1865.
Q What time of the year 1865? A We started in March to come, and I got to the Creek Nation the last part of the month.
Q You came back then before peace was declared? A Yes, sir, I came back and come back in the Creek Nation the last part of March and I dropped with Mr. Fields.
Q Dick Fields? A Yes, sir, and Judge Adair.
Q Judge Adair in the Choctaw Nation? A No, sir, don't give me the Choctaw Nation, give me the Creek Nation.
Q That was in 1865? A Yes, sir.
Q Now then you came on back to the Cherokee Nation when? A In 1865.
Q And you have resided continuously here? A Continually backwards

and forwards.
Q When did Sallie come back to the Cherokee Nation, if she ever came back? A Well she came back all right enough.
Q When was it? A I can't tell you the exact time when she came back, I didn't see her when she came back, I seen her after she came back.
Q When did you see her? A Along about 1866 when I seen her.
Q How do you know it was along in 1866? A I was talking with Judge Adair about it myself and Mr. Fields, and they told me themselve
Q They told you themselves it was about 1866? Didn't say 1865 or 1867, but about 1866? A No sir, I just asked them about what time it was.
Q She came to what point when she came back? A I seen her this side of Fort Smith, this side of old man Henry Mayfield; I was living here and happened to be down in this country.
Q How long did she live in Fort Smith before she came into the Nation? A I don't know.
Q You were living in Fort Gibson and she was living down there? A Yes sir.
Q And you don't remember what year it was you saw her down there? A No, sir, I don't exactly remember, but it was in 1866 so I was told myself.
Q That fellow that told you is dead too isn't he? A Yes sir.
Q You were grown at that time, wasn't you? A I must have been.
Q You know, don't you? A Yes, sir, I was just about grown.
Q Do you want to be understood that you don't remember whether it was 1865 or what year it was you saw this woman down there you had known before the war? A No, sir, I want to be understood it was 1866 I seen her.
Q You know it was 1866 you seen her? A Yes, sir.
Q And you were living near Fort Gibson and she in the southern part of the Nation? A Yes, sir, I happened to go down that way and happened to seen her; I was first here and then there, I didn't stay in once place all the time.
Q Where did Sallie Mayfield live when she returned to the Cherokee Nation? A She lived out here on the Canadian, she is living on the Canadian out on the bayou here in Illinois district now.
Q Has she resided continuously in the Cherokee Nation since she returned? A Yes, sir.
Q Don't you know she lived in Muskogee about ten years? A No, sir.
Q Have you known her continuously since she returned? A Yes, sir.
Q And known her to be living in the Cherokee Nation all the time? A Yes, sir, she has been in Muskogee, I have seen her there.
Q And she has lived there too you know? A No, sir, I know she has come to Muskogee.
Q The fact of the business is you ~~didn't know~~ don't know where she has lived all the time? A No, sir, not all the time.
Mr. W. W. Hastings, attorney for Cherokee Nation : Did you know the applicant Sallie Mayfield when the war broke out? A I did.
Q Where was she then living? A She was living in Flint District, so I heard.
Q Was she living there? A She had been living there.
Q Do you swear it? A Well I can swear it.
Q Do you do that? A Yes, sir.
Q The Henry Mayfield you referred to is the same man known as Henry West that belonged to Walk Mayfield, Sequoyah district? A Yes, sir.
Q He was back there before this applicant, Sallie Mayfield, returned? A Yes, sir, he was there.
Q Walk Mayfield was also down there, was he, at the time she returned? A Yes, sir.
Mr. Faulds- Do you remember where you first saw her in the Cherokee Nation? A At Walk Mayfield's place.

Mr. Hastings: And he was there? A Walk, I think Walk was there, but old man Henry Mayfield was there himself, the old colored man that he owned.
Q Known as Henry West? A Yes sir.

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C. W. Vann, being duly sworn and examined by Commissioner Needles, testified as follows:
Q What is your name? A C. W. Vahn.
Q What is your age? A I will soon be 87.
Q What is your postoffice address? A Benge.
Q Are you a recognized Cherokee Freedman? A I think not; they have been fighting me ever since I have been here.
Mr. Faulds: Where were you in 1861 when the war broke out, Mr. Vann?
A I was in Sequoyah district, sometime at Fort Gibson.
Q Did you know at that time Sallie Mayfield, the applicant for enrollment. A I did.
Q Where was she living at that time? A Part of the time she was somewhere up here in Flint, but when she started to go off she was in Sequoyah district; she taken two of my sisters with her, old Miss Mayfield.
Q Do you know where they went? A Texas they say, I didn't follow them.
Q Do you know whether she was a slave at that time? A I do.
Q To whom did she belong? A Old Mrs. Mayfield.
Q Where were you living in 1866? A Sequoyah; sometimes here at Fort Gibson, sometimes at Tahlequah.
Q Do you know if she came back in that year? A She came here in August, 1866, right along in August.
Q Has she been here ever since? A I don't know, I have seen her sometimes, and sometims I haven't.
Mr. Hastings- Where did you see her in August of 1866? A I was here down by old Henry Mayfield's, a negro that belonged to Walk Mayfield.
Q Known as Henry West? A Yes, sir.
Q In August of 1866? A Yes, sir.
Q To what Mayfield did this applicant, Sallie Mayfield, belong before the war? A Belonged to old Miss Matfield.
Q What was her first name? A I don't know; why her name was Betsy; I believe her name was Sallie, I am not certain.
Q What was her husband's name? A Old man Mayfield.
Q Yes. A I am not certain, I believe his name was Bill.
Q Where did he live? A Lived on Blackburn Prairie, up from the river right on the prairie.
Q In what district? A Sequoyah.
Q He lived there when the war broke out? A No, there is where they started from when they went to Texas.
Q When did they start to Texas? A Right along when the war began to get pretty hot.
Q Just at the beginning of the war? A No, sir, itmwas just after the beginning, it had been going on sometime.
Q 1862 or 63? A No, sir, it wasn't sixty at all.
Q About what year? A Well, sir, that is a little farther than I know, I didn't take any particular notice what time they started, there was nothing particular to call my attention to it.
Q It was after the war of the rebellion had startmed up that old Miss Mayfield went to Texas? A Yes, sir, and taken two of my sisters
Q Her husband was alive then, old Miss Mayfield's husband? A I think not.
Q Did you know him? A Well I knowed him when he was alive, but I think not.
Q How long had you known him before that? A I had known him a

long time.
Q How long had it been just before that that you had known he was living? A He lived in the years when I knowed him, but in the time of the rebellion they was running around about and I paid no attention till when they started off with my two sisters, and then I was to see them when they left.
Q You were there when they left? A Yes sir.
Q And you don't remember whether they were alive or not? A No, sir, I don't remember; there were so many taking their negroes to Texas I think he was dead, I don't think he was alive.
Q You are certain it was after the war commenced? A Yes, sir, because they taken my two sisters with them.

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Commissioner Needles: The name of Sallie Mayfield is not found on the authenticated roll of 1880, or the census roll of 1896. Final judgment as to her enrollment as a Cherokee Freedman will be suspended, and her name will be placed upon a doubtful card.

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George Amos Mayfield, recalled, testified:
Mr. Hastings: You applied to the Commission for enrollment?
A Yes sir.
Q Have you been enrolled on a straight card? A I can't tell you, I applied at Muskogee.
Q Did they reject you? A I don't know whether they did or not.
Q Your name isn't on the 1880 roll? A I think it is.
Mr. Faulkner: You go by the name of Boss Mayfield sometimes don't you?
A No, sir, just the two names, George Mayfield and Amos Mayfield.
George Amos Mayfield is listed on CherokeeFreedmen rejected card No. 5.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones.

Sworn to and subscribed before me this the 18th day of April, 1901.

C. R. Breckinridge,
Commissioner.

The undersigned, having duly sworn, ~~[illegible]~~ stenographer to the Commission to the Five Civilized Tribes, says that the above and foregoing is a true and correct copy of the original testimony and proceedings in the case of Sallie Mayfield; said original transcript having been made by J. G. Rogers and Bruce C. Jones, as stenographers.

Subscribed and sworn to before me this 27th day of April, 1901.

Commissioner.

To be filed in Case D-1 24

SUPPLEMENTAL: D 91, Sallie Mayfield.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I. T., April 20, 1901.

In the matter of the application of Sallie Mayfield for enrollment as a Cherokee Freedman:
G. W. Vann, being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A G. W. Vann.
Q Eighty-seven years old? A Yes sir.
Q Post-office Benge? A Yes sir.
Q Are you the G. W. Vann who testified in the case of Sallie Mayfield on April 12th, 1901? A Yes sir, and the only one that's alive.
Q In your testimony given on that day, you stated you were living in Sequoyah District and sometimes Tahlequah? A Yes sir.
Q You state you knew that Sallie Mayfield returned to the Indian Territory in 1866? A Yes sir.
Q Do you desire to rectify that statement? A I do, sir, because it was in '70, because I was cutting wood, and I quit clearing below the rest there which went over the line and went to waiting on Colonel McCloud, and when she come to my — she lived with my sisters and they took them all together into Texas.
Q When was the next time you saw Sallie Mayfield? A I saw her from '70.
Q When was the first time you saw her after the Civil War? A About '70 is the first time I ever I saw her.
Q You are satisfied now on reflection that the testimony you gave, stating that youmsaw her in '66 was a mistake? A Yes sir.
Q And that it was '70 instead of '66? A That's it; that's all the correction there is about it.
Q And you desire to rectify and recall your testimony of that day? A Yes sir.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D.Green

Subscribed and sworn to before me this April 22, 1901.

T. B. Needles,
Commissioner.

The undersigned, being duly sworn as stenographer to the Commission to the Five Civilized Tribes, says that the above and foregoing is a true and correct copy of the testimony and proceedings in the case of Sallie Mayfield; said original transcript having been made by M. D. Green, as stenographer.

E. Rothenberger

Subscribed and sworn to before me this 29th day of April, 1901.

Commissioner.

To be filed in Case D-124

( COPY)

SUPPLEMENTAL: D 91, Sallie Mayfield

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 20, 1901.

In the matter of the application of Sallie Mayfield for enrollment as a Cherokee Freedman.

G. W. Vann, being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A G. W. Vann.
Q Eighty-seven years old? A Yes, sir.
Q Post-office Benge? A Yes sir
Q Are you the G. W. Vann who testified in the case of Sallie Mayfield on April 12th, 1901? A Yes sir, and the only on e that's alive.
Q In your testimony given on that day, you stated you are living in Sequoyah District and sometimes Tahlequah? A Yes sir.
Q You state you knew that Sallie Mayfield returned to the Indian Territory in 1866? A Yes sir.
Q Do you desire to rectify that statement? A I do sir, because it was in '70, because I was cutting wood, and I quit clearing below the rest there which went over the line and went to waiting on Colonel McCloud, and when she c[illegible]-to my-- she lived with my sisters and they took them all together into Texas.
Q When was the next time you saw S allie Mayfield? A I saw her from '70.
Q When was the first time you saw her after the Civil War?
Q About '70 is the first time I ever I saw her
Q You are satisfied now on reflection that the testimony you gave, stating that you saw her in '66 was a mistake? A yes sir
Q And that it was '70 instead of '66? A That's it; that's all the correction there is about it
Q And you desire to rectify and recall your testimony of that day? A Yes sir.

-o-o-o-o-o-o--o-o-o-o-o-o-

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green

Subscribed and sworn to before me this April 22, 1901.

T. B. Needles,
Commissioner

The undersigned, being duly sworn as stenographer to the Commission to the Five Civilized Tribes, says that the above and

and foregoing is a true and correct copy of the testimony and proceedings in the case of Sallie Mayfield; said original transcript having been made by M. D. Green as stenographer.

( Signed) M. G. Rothenberger

Subscribed and sworn to before me this 29th day of April, 1901

(Signed) C. R. Breckinridge
Commissioner

Lucy M. Bowman being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes she made the above and foregoing copy and that the same is a full true and correct copy of a document now on file with the Commission to the Five Civilized Tribes.

Lucy M Bowman

Subscribed and sworn to before me this 28th day of January, 1905

W. A. Durham
Notary Public.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T. September 11, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Thomas Mayfield, C. F. D. #124.

The Cherokee Nationmakes satisfactory proof of service of notice on the said Thomas Mayfield that testimony would be introduced by the Cherokee nation in the matter of his application on the 11th of September, 1901, at Fort Gibson, Indian Territory. The said Thomas Mayfield has been called three times and does not respond.

By W. W. Hastings, Cherokee Representative:
The Cherokee Nation asks that the testimony of Mark Bean and L. B. Bell, taken on September 4th , 1901, in the case of Hannah West, C.F.D. #43 as to the citizenship and residence of Sallie Mayfield, be made a part of the record in this case. Also that the testimony of W. T. Harnage, Ezekiel Harnage and D. M. Faulkner, in the case of Houston West, C.F.D. #989, be made a part of the record inthis case.

-o-o-o-o-o-o-o-o-o -

Chas . von Weise, upon his oath states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full and correct transcript of his stenographic notes therein.

Chas. von Weise.

Subscribed and sworn to before me this the 11th of September, 1901

Signed M. D. Green
N.P.

Lucy M. Bowman, being duly sworn states that as stenographer to the commission to the Five Civilized Tribes she made the above and foregoing copy and that the same is a full true and correct copy of the original transcript.

Lucy M Bowman

Subscribed and sworn to before me this January 28, 1905.

M. D. Hudson

Notary Public.

File with Thomas Mayfield et al., C.F. D-134

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Hannah West et al. for enrollment as Cherokee Freedmen.

Testimony introduced on behalf of Cherokee Nation.

Appearances:
Applicant not present;
W. W. Hastings, of counsel for Cherokee Nation.

Commissioner: Proof of notice to applicant filed, notifying her that testimony will be taken September 4, 1901. Applicant fails to appear either by herself or attorney.

MARK BEAN, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Mark Bean.
Q What is your age? A 58.
Q What Your postoffice? A Evansville, Arkansas.
Q You a Cherokee by blood? A Yes, sir.
Q Do you know Sallie Mayfield, who was formerly a citizen of the Cherokee Nation? A Yes, sir.
Q Where did she live when you knew her first? A She lived in Flint District, Cherokee Nation.
Q What was her husband's name? A Jesse Mayfield.
Q Do you know whether or not she owned a colored woman by the name of Hannah West? A No, I don't know that.
Q Well, was Sallie Mayfield living in Flint District when the war came up? A No, sir.
Q Where was she? A She was living in Russ County, Texas.
Q How long has she been gone from this country when the war broke out? A She left Flint district in about 1847.
Q Where did she go from Flint district; did she go direct to Texas? A Direct to Texas.
Q She never returned here then till after the war? A No, sir, excepting on visits.
Q Have a home in Texas? A Home in Texas.
Q Staying in Texas? A Staying in Texas.
Commissioner: Did she ever remove to the Cherokee Nation afterwards? A Yes, sir.
Q When? A She moved back in about '68 or '9.
Q Was she readmitted to Cherokee citizenship then? A I think she was.
Q Do you know a slave of hers named Hannah? A I don't recollect.
Q You don't know then whether Hannah West was a slave of Sallie Mayfield or not? A No, sir.
Q You don't know anything about the return of Hannah West then? A No, sir.

L. B. BELL, being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A L. B. Bell.
Q What is your age? A 62, nearly 63.
Q What is your postoffice? A Vinita.
Q Do you know Sallie Mayfield, who was once a citizen of the Cherokee Nation before the war? A Yes, sir.
Q When did you know her? A Well, I guess ablut as far back as I can recollect, known her nearly continuously from the time, say '43 or '45, up to when she died; there was a little skip in my seeing her from 1847 till '55.
Q Well, do you know where she lived after 1847? A Well in 1847

she lived up there in Flint District, Cherokee Nation, and the disturbance brought about here arising out of the treaty of 1835, they moved across the line to Arkansas for a little while and then went back to Texas.

Q Did they come here after the war? A They went to Russ County, Texas, and lived there from that time till '55, and then I went to Texas, that is, members of our family, kin folks, and I stayed down there and knew them all along from that day till she came here and stayed a while and died; she lived there from '47 continuously till about '67 or '8.

Q Have a home there in Texas? A Yes, they had a home.

Q Recognized citizen of Texas? A Was a cotton planter, had looked like 75 or 100 negroes.

Q Husband and family lived there? A Yes, the old man and wife and son and three or four daughters.

Commissioner: They returned to the Cherokee Nation in '67 or '8? A Yes, she was here in '67 or '8.

Q Were they readmitted to Cherokee citizenship? A Along somewhere after 1880.

Q Do you know Hannah West? A No, sir, I didn't know the negroes, there were too many to know.

**********

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 5th of November, 1901.

Commissioner.

File with Cherokee Freedman D-124, Thomas Mayfield.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Houston West for enrollment as a Cherokee Freedman.

Testimony on behalf of Cherokee Nation.

Appearances:
Applicant not present;
W. W. Hastings, of counsel for Cherokee Nation.

Commissioner: Attorneys for Cherokee Nation make proof of service of notice that they will introduce testimony in this case on September 4, 1901.

W. T. HARNAGE, being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A W. T. Harnage.
Q What is your postoffice? A Tahlequah.
Q What is your age? A About 53.
Q You a Cherokee citizen by blood? A Yes, sir.
Q I believe you made a statement that you returned here in December of 1866, after the war? A Yes, sir.
Q To what part of the Cherokee Nation did you come? A Sequoyah district.
Q How far did you locate from Fort Smith? A Just across the river, about half a mile from the line.
Q What relation are you to Zeke Harnage? A Half brother.
Q Is he older or younger than you? A He is older.
Q Did you know Walk Mayfield? A Yes, sir.
Q What relation is he to you? A He is my uncle.
Q How long did you continue to remain down there in Sequoyah district immediately after you came? A I stayed there in the bottom until after Christmas, then I went up to Flint.
Q You stayed there until after Christmas of '66? A Yes, sir.
Q About the first of January? A About the first of January sometime.
Q Nor did your uncle Walker Mayfield return when you lived there? A No, sir.
Q Now how long did you remain up in Flint? A I stayed up there till about the middle of April and went back down in the bottom.
Q And when you came back had he returned then? A Yes, sir, he was there than when I went back to the bottom.
Q That was in April of what year? A '67.
Q But when you left there after Christmas of '66, about January, he hadn't come? A No, sir, he hadn't come in, we left him in Texas in the fall of '66.
Q You left him there? A Yes, sir.
Q Had he made a crop there in Texas that year? A Yes, sir.
Q You know what kind of a crop, cotton and corn? A Corn and cotton.
Q Well, how far did he locate from your place and from the place that you had stopped when you returned there in April of '67?
A About five miles.
Q He was your uncle? A Yes, sir.
Commissioner: He came there you say in April, '67? A I came back to the bottom in April '67 and he was there when I came.
Q Walker Mayfield was? A Yes, sir.
Q You know when he came there? A No, sir, he came after I left. I left the bottom in January, '67, and went up to my uncle's in Flint and stayed there till April.
Q And he wasn't there when you left? A No, sir, but when I got back there, he was there.
Q What brings it to your memory that it was in '67? A Because it

was in '66 when we came there, in the fall, and I stayed there till that Christmas.

Q You are positive of that? A Yes, sir, and after Christmas I went to Paint.

Q Couldn't have Walker Mayfield come to the Cherokee Nation before that date; you don't know when he actually did come, do you?

A No, sir, he wasn't there when I left.

Q He wasn't, you mean, on this place? A No, sir.

Q But you don't know whether he was in any other part of the Cherokee Nation when you left? A No, sir, I don't know whether he was.

Q The first time you saw him was in April, '67? A Yes, sir.

Mr. Hastings: I believe you stated you left him in Texas when you came to Fort? A Yes, sir, we left him in Texas when we started.

Commissioner: When was that? A In December, in November, '66.

Q He was living there then? A Yes, sir.

Q Did he bring his old slaves with him when he came back?

A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q When did you first see Houston West? A I saw them all together at that time.

Q Was Houston West in Texas when you left there? A Yes, sir.

Q Living on Mayfield's farm? A Yes, sir.

Q They made a crop there? A Yes, sir.

Q What kind of crop? A Cotton and corn.

EZEKIEL HARNAGE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Ezekiel Harnage.

Q What is your postoffice? A Foyil.

Q What is your age? A 59 years old.

Q You are a Cherokee citizen? A Yes, sir.

Q You were in Texas when the war closed, were you? A Yes, sir.

Q Now when did you return to the Cherokee Nation? A I came back on the 16th day of December, 1866.

Q Now to what part of the Cherokee Nation did you come? A Sequoyah District.

Q What relation were you to Walk Mayfield? A He was my second cousin; he was a first cousin of my mother's.

Q You and this other witness are half brothers? A Yes, sir.

Q Different mothers? A Yes, sir.

Q Now you came back, I believe you say, to Sequoyah District?

A Yes, sir.

Q Now you know Walk Mayfield, do you? A Oh yes.

Q Did you see him in Texas? A Yes, I saw him in Texas.

Q How far did you live from him down there, or did he from you?

A About a couple of miles, or hardly that far.

Q Did you leave him, or he leave you there? A I left him there.

Q You moved up in Sequoyah about December 16, 1866?

A Yes, sir.

Q Now what time did Walk Mayfield come to the Cherokee Nation?

A To the best of my knowledge Walker Mayfield came there along in the latter part of March, 1867.

Q Did he bring his slaves with him? A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q He had three boys, Houston, Calvin and George? A Yes, sir.

Q Did you continue to reside there in Sequoyah District from December 16th [illegible] the following April, March or April?

A Oh yes, I was there all the while.

Q About how far did Walk Mayfield locate from you when he came?

A I guess it was four miles and a half, or five.

Commissioner: Did you know Houston West? A Yes, I knew those boys.

Q Was there a sister named Mary? A I don't remember how many [illegible] there were.

Q Well, Houston West was a slave of Walk Mayfield? A Yes.
Q When did you first see Houston, after the war? A I saw him after the war, after Mayfield came back to the Nation.
Q With Mayfield's family? A Yes, sir.
Q Are you positive Mayfield didn't come back to the Cherokee Nation until after January, 1867? A I am positive of it.
Q Is he living? A No, he is dead.
Q His wife living? A No, she is dead.
Q What fact fixes the date of Mayfield's return in your mind?
A The fact of the business is, the fact that fixes it in my mind was about going to work to make a crop.
Q Well, as to the year? A Oh, I know when I moved, and Walk Mayfield come the next spring like.
Q You know that you came in '66? A I know that, I am positive of the fact.
Q Where were you living in '65? A In Texas.

D. M. FALKNER, being duly sworn by Commissioner Needles, testified as follows:
Q What is your name? A D. M. Falkner.
Q What is your age, Mr. Falkner? A I am about 60.
Q What is your postoffice address? A Hanson, Indian Territory.
Q You a Cherokee by blood? A Yes, sir.
Q Mr. Falkner, you have been married, I believe, the second time?
A Yes, sir.
Q What was your first wife's name? A Her name was Rachel L. Adair.
Q That was her maiden name? A Yes, sir.
Q Was she any relation to Walker Mayfield? A Yes, sir, she claimed that Mayfield was her uncle.
Q Did you know Walk Mayfield yourself? A Yes, sir.
Q Where were you living in the year of '66 and the spring of '67?
A I was living in Sequoyah district, Cherokee Nation.
Q Did you know Walk Mayfield before the war? A Yes, sir.
Q When did Walk Mayfield return to the Cherokee Nation after the war? A Well, he returned about the first week of April, 1867.
Q Now Mr. Falkner, tell the Commission why you fix that time, all the circumstances? A Well, this young lady that I spoke of —
Q That you afterwards married? A Yes; she was boarding with my sister, teaching school, and the news come that her uncle had come home from Texas, just from Texas, and I went with her over there, that is about the first part of April, the first week, or the first of April, 1867, when we went, and they claimed they had just come in.
Q Well, how far was it that you had to go? A Four miles, and then I went with her over there, and the reason why I am so positive about it, me and her was married about ten or fifteen days after that; that is, this young lady.
Q Your first wife? A Yes, my first wife.
Q Rachel L. Adair? A Yes, sir, and I have got it in the bible at home, my marriage; we were married about a week or fifteen days after he come, and I think it is dated on the 17th of April, or the 27th of April, when me and her were married, and just a few days before that is when me and her went over there.
Q That is her uncle, Walk Mayfield? A Yes, sir.
Q You had heard of him coming these four miles here, and you went over there to see him, and they had just come in? A That is what they claimed, they had just come in.
Q You hadn't heard of him [illegible] before that? A No, sir.
Q Did they have some slaves, colored people, with them? A Yes, sir, they had come there. Of course I wasn't acquainted with the slaves, but there was an old man named Henry West, and I have known him ever since; they claimed he had brought in his slaves, and that old man was all I seen.
Q Had they unloaded [illegible] when you got there? A There was

a covered wagon standing there at the house when we got there.

Commissioner: What year were you first married, Mr. Falkner?

A It was in April, '67.

Q You are positive of that? A Yes, sir, I have got it in the bible at home.

Q You didn't know Henry West, a slave? A No, sir, I didn't know him, they told me them was his darkies, all I know.

Q You don't know of Walker Mayfield coming into the Territory before that time at some other point? A No, sir, that is the only time I heard about it, and I lived by him before the war.

Mr. Hastings: Your first wife is dead? A Yes, sir, she is dead.

Commissioner: Walker Mayfield dead? A Yes, sir.

Q His wife dead? A Yes, sir.

Q Any of his children living? A Well, I don't know, no, sir, all dead; he had three boys but they are all dead.

Q How far is this Walker Mayfield place, where he came to, from the Cherokee line? A It is about fourmiles and a half, or five; they crossed there at Fort Smith I suppose, to go to that place.

Q Four or five miles from that place to Fort Smith? A Yes, sir.

Q Coming from Texas then that would be the first place they would strike in the Territory? A Yes, sir.

Q There is where they all crossed? A Yes, sir.

Q Were you down in Texas? A No, sir, I was at Skulleyville, across the river there, in '65 and '66; '66 I moved over with my sister.

Commissioner: This testimony will be made part of the record in the cases of Callie West, D-1000, and George West, D-990.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 16th of November, 1901.

M D Green
Notary Public.

370 124

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 12 1901

In Re

Department of The Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T. September, 11,1901.

SUPPLEMENTAL TESTIMONY in the Matter of the application of Thomas Mayfield, C. F. B. #134.

The Cherokee Nation make satisfactory proof of service of notice on the said Thomas Mayfield that testimony would be introduced by the Cherokee Nation in the Matter of his application on the 11th of September, 1901 at Fort Gibson Indian Territory. The said Thomas Mayfield has been called three times and does not respond.

By W. W. Hastings, Cherokee representative:

The Cherokee Nation asks that the testimony of Mark Beam and L. B. Bell, taken on September 4th 1901 in the case of Hannah West C. F. D. #43 as to he citizenship and residence of Sallie Mayfield, be made a part of the record in this case. Also that the testimony of W. T. Harnage, Ezekial Harnage and D. M. Faulkner, in the case of Houston West, C. F. D. #389, be made a part of the record in this case.

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Chas. von Weise, upon his oath state that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that theforegoing is a full and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 11th of September, 1901.

W W Greene

M P

Commissioner.

C. M. McR.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Sallie Mayfield, et al., as Cherokee Freedmen, consolidating the applications of--

Sallie Mayfield, Cherokee Freedmen D-91,
Thomas Mayfield, et al., Cherokee Freedmen D-124;
Emberry Mayfield, et al., Cherokee Freedmen D-131.

-: D E C I S I O N :-

The record herein shows that application for enrollment as Cherokee freedmen were made to this Commission by Sallie Mayfield for herself, by Thomas Mayfield for himself, his wife, Ella Mayfield, and his minor children, Milert, Houston, John Cornelia, Fannie, Hattie, Emmett, Thomas and Leonard Mayfield, the said Ella Mayfield claims only as an intermarried freedman and her rights are not passed on in this decision; and by Emberry Mayfield for himself and his minor daughter, Sallie Mayfield. A copy of the testimony of Mark Bean and L. B. Bell in Cherokee Freedmen D-43, and a copy of the testimony of W. T. Harnage, Ezekiel Harnage and D. M. Falkner in Cherokee Freedmen D-989, taken at Fort Gibson, Indian Territory, September 4, 1901, are filed herewith and made a part of the record in this case.

The evidence herein shows that the Sallie Mayfield and Thomas Mayfield first mentioned above are mother and son, and that they were both at one time the slaves of one Sallie Mayfield, who was a Cherokee citizen but who, prior to the commencement of the rebellion, removed to the state of Texas taking these two applicants with her and established a residence in said State; that the applicants Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas and Leonard Mayfield, are the minor children of the said Thomas Mayfield first mentioned above and claim their right to enrollment through him; that the said Emberry Mayfield is a son of the said Sallie Mayfield first mentioned above, was born since the commencement of the rebellion, and therefore claims his right to enrollment through his mother, and the said Sallie Mayfield is the minor daughter of said Emberry Mayfield and claims her right to enrollment through her father.

It further appears from the evidence herein that neither the said Sallie Mayfield nor Thomas Mayfield first mentioned above

returned to and established a residence in the Cherokee Nation within the time specified in the decree of the Court of Claims rendered on February 5, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation.

It further appears that the names of none of the applicants herein appear upon the 1880 authenticated Cherokee Roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Sallie Mayfield, Thomas Mayfield, her son; Hilert Mayfield, Houston Mayfield, John Mayfield, Cornelia Mayfield, Fannie Mayfield, Nettie Mayfield, Emmett Mayfield, Thomas Mayfield and Leonard Mayfield, the children of said Thomas Mayfield; Emberry Mayfield and his daughter, Sallie Mayfield, as Cherokee freedmen should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby
Chairman.

(Signed) T. B. Needles
Commissioner.

(Signed) C. R. Breckinridge
Commissioner.

Commissioner.

Muskogee, Indian Territory,

Apr 30 1904.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 11 1901



N

D. 124 Thomas Mayfield

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on Thomas Mayfield

by delivering a true copy thereof on the 10 day of Sept A. D. 1901.

Given under my hand this 10 day Sept A. D. 1901.

Marshal for Cherokee Nation.

---

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the day of , 1901.

Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to

on the day of A.D. 1901

Subscribed and sworn to before me this day of A.D. 1901.

---

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
SEP 11 1901

ACTING CHAIRMAN

# NOTICE!

*IN THE MATTER OF* The application of Thomas Mayfield for enrollment as a Cherokee Freedman:

Case No. F. D. 124

To Thomas Mayfield

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Ft Gibson Indian Territory, on the following dates, to-wit: SEP 11 1901 A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 7 1901 day of ....., 1901.

R. B. Bell

*Attorneys for the Cherokee Nation.*

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mr. Thomas Mayfield,
Ft. Gibson, I.T.
Cherokee F-D-124
Register.

DEPARTMENT OF THE I
CO
APR 30 1901

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date APR 19 1901

Post Office Fort Gibson

District Illinois.

1. Name Thomas Mayfield Age 40

Owner's name Sallie Mayfield Citizenship Cherokee

Year ..... Page ..... No. ..... District .....

Parents:

Father Miles Mayfield Citizenship Col D

Mother Sallie " Citizenship Col

2. Name of wife Ella Mayfield Age 38 (intermixed)

Owners name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

Names of Children:

3. Milcart Mayfield Year ..... Page ..... No. ..... Dist. 20

4. Houston (Hunter) " Year ..... Page ..... No. ..... Dist. 19

5. James " Year ..... Page ..... No. ..... Dist. 16

6. Cornelia " Year ..... Page ..... No. ..... Dist. 15

7. Hannie " Year ..... Page ..... No. ..... Dist. 12

8. Hattie " Year ..... Page ..... No. ..... Dist. 10

9. Emmett " Year ..... Page ..... No. ..... Dist. 9

10. Thomas " Year ..... Page ..... No. ..... Dist. 6

11. Leonard " Year ..... Page ..... No. ..... Dist. 5

12. ..... Year ..... Page ..... No. .....

Application made by Mo W Stenographer Rothenberger E.S.

8 1214

DEPARTMENT OF THE IN
COMMISSION TO THE FIVE C
FILED
APR 2 190

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BREECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Ft. Gibson, Ind. Ter. April 27 th., 1901.

Received of the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application of Thomas Mayfield, [illegible] for the enrollment as Cherokee Freedman of the Cherokee Nation.

J. S. Faulds

Attorney for Applicant.

Enc. B 184.

COPY.

Cherokee Freedmen
D-124.

Muskogee, Indian Territory, May 5, 1904.

Thomas Mayfield,

Fort Gibson, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, rejecting, among others, your application for the enrollment of yourself and your children, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas and Leonard Mayfield, as Cherokee freedmen. Your attorney, A. S. McRea, Muskogee, Indian Territory, has heretofore been furnished with a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Register
Enc. D-208.

Commissioner in Charge.

COPY.

Cherokee Freedmen
D-91 et al.

Muskogee, Indian Territory, May 5, 1904.

A. S. McRea,

Representing J. F. Faulds,

Attorney for Sallie Mayfield et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 30, 1904, in the consolidated case of Sallie Mayfield et al., rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Register
D-240.

COPY.

Cherokee Freedmen
D- 91 et al.

Muskogee, Indian Territory, May 5, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Sallie Mayfield et al., rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Enc. D-811

Commissioner in Charge.

COPY.

Cherokee Freedmen
D-91 et al.

Muskogee, Indian Territory, May 5, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Sallie Mayfield et al., including the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Through the
Commissioner of Indian Affairs.

Enc. D-212.

Cherokee Freedmen
D-124.

Muskogee, Indian Territory, May 16, 1904.

Thomas Mayfield,

Fort Gibson, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of May 11, asking for a copy of the testimony in the matter of your application for enrollment as a Cherokee freedman. It is noted that you state that A. S. McRea is not now authorized to represent you in your said application and his name has been stricken from the Commission's records in your case.

In accordance with your request there is herewith enclosed a copy of the testimony in your case.

Respectfully,

Chairman.

Enc. D-33.

( C O P Y )

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

Refer in reply to the following:
Land.
31088-1904.

Washington, June 13, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes, dated May 5, 1904, transmitting the records of the applications of Sallie Mayfield and Thomas Mayfield for himself and his nine minor children, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas and Leonard Mayfield, and Emberry Mayfield for himself and his minor child, Sallie for enrollment as Cherokee Freedmen.

April 20, 1904, the Commission found that the applicants were not entitled to enrollment as Cherokee Freedmen.

The evidence shows that the applicant, Sallie Mayfield, was the slave of a Cherokee citizen who removed with her slaves and other effects in the year 1847, and became a citizen of the State of Texas; that the applicant, Sallie Mayfield did not return to the Cherokee Nation on or before February 11, 1867.

The Commission appears to be in error in stating that Thomas Mayfield who is the son of Sallie Mayfield was taken out of the Cherokee Nation by a Cherokee citizen for the reason that Sallie Mayfield herself was but six years of age when taken out of

the Nation.

It is also shown that Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas Jr., Leonard, Emberry, and Sallie Mayfield are descendants of the applicant, Sallie Mayfield and have no rights to enrollment except through her.

The names of none of the applicants are identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's action adverse to the applicants is recommended.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

M.M.M.
W.

W.C.F.
J.P.
FHE

DEPARTMENT OF THE INTERIOR,

D. C. 21476-1904. WASHINGTON. June 21, 1904.

I. T. D. 4880-1904.

LRS.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

May 5, 1904, you transmitted the record in the consolidated case embracing the applications of Sallie Mayfield, et al (F. D.-91 et al), for enrollment as Cherokee freedmen, including your decision of April 20, 1904, rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield.

Reporting June 13, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision in so far as it rejects the applicants is affirmed.

Respectfully,

(Signed) E. A. Hitchcock.

Secretary.

1 inclosure.

Cherokee Freedmen
D 124

Muskogee, Indian Territory, June 30, 1904.

Thomas Mayfield,

Fort Gibson, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting, among others, your application for the enrollment of yourself and your minor children, Milert, Houston, John, Cemelia, Fannie, Hattie, Emmett, Thomas and Leonard Mayfield, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D #1, et al.

Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Sallie, Thomas, Gilert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cher. Fr. R-409

Cher. Fr. R-409

See Cher. Fr. D-124, R-409, R-408

To be filed in case of Emberry Mayfield, D.#131.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., APRIL 12th, 1901.

In the matter of the application of Sallie ~~Mayfield~~ Mayfield for enrollment as a Cherokee Freedman; said Mayfield being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Sallie Mayfield.
Q Howold are you, Sallie? A Well, to my recollection and judgment I am about 50 years of age.
Q What is your post office? A Gibson here.
Q What district do you live in? A Sequoyah here.
Q Do you apply to be enrolled as a Cherokee Freedman? A No, sir.
Q Who do you want to enroll? A I ain't been on any rolls as I knows of.
Q You apply to be enrolled now, do you, as a Cherokee Freedman?
A Yes, sir.
Q Did you ever apply to any other Nation or tribe to be enrolled?
A No, sir.
Q Have you ever been recognized by the Cherokee authorities as a Cherokee Freedman? A No, sir.
Q Is your name on the roll of 1880? A No, sir.
Q Is your name on the roll of 1896? A Not on the roll nowhere as I knew of.
Q Were you a salve? A Yes, sir.
Q Whom did you belong to? A Misses Mayfield.
Q Was she a Cherokee citizen? A Yes, sir.
Q Where were you at the beginning of the war? A They carried me out.
Q Where? A Carried me to Texas.
Q How long did you stay in Texas? A Just as soon as they told me pease was made I run away from there by night and come back here.
Q When was it you come back to the Cherokee Nation? A About '66.
Q Have you been living here ever since? A Ever since.
Q Who do you want to enroll besides yourself? A I got three boys.
Q What is the name of the oldest one? A Thomas Mayfield.
Q How old is he? A I tell you just about how old he is, when I come back here in about three weeks I had him.
(All the children found to be of age, and applicant is informed that they will have to apply for themselves.)
Q So you don't apply for anybody but yourself then? A No, sir.
Q Did you draw what is known as the strip payment money? A No, sir.
Q Never been recognized? A No, sir.

BY J. S. DAVENPORT, Cherokee Representative:

Q How long have you been going by the name of Sallie Mayfield?
A All my life.
Q Have you been married? A I married, but I married a Mayfield.
Q Now, do you know what point you went to in Texas during the war?
Q Went in West County.
Q Who went with you? A George Starr and young Joss Mayfield and Tom Mayfield.
Q Now, you came back after peace was declared? A Yes, sir.
Q You don't know how long it was after peace was declared?
A I come back here about '66.
Q Was it before '66 or just after '66? A Just about '66.
Q I know you say it is about '66, you don't know when you did come, Aunt Sallie? A They told me; I just tell you what month I come back in, in June or July.
Q Now then when you came back here did you find anyone you had known when you left here? A Henry West and Walter Mayfield.

Q Were they Cherokee citizens? A Yes, sir.
Q They were not Cherokee Freedmen? A Yes, sir. Old man George Vann went to Texas and after I went to Texas and stayed there with him a while because old George Mayfield carried two of his sisters out.
Q That was George Vann that lives in Sequoyah district? A Yes, sir; after I come back sometimes when I wanted anything to eat I would go out to Fort Smith and get what I wanted and come back.
Q How long did you live in Fort Smith? A Staid a week or so and come back to old George Vann's.
Q Are you related to George Vann? A No, sir.

BY COMMISSIONER T. B. NEEDLES:

Q Have you got any witnesses here that know when you came back? A Yes, sir; George Vann and Alleck Nivens.
Q Are they here? A I guess so, they ought to be.
Q Why was not your name on the roll of 1880? A I don't know, of course my husband died just about the breaking up of the war and I had nobody to come back and I don't know anything. They had this last roll up there and they didn't put me on, I don't know what was the cause.
Q They never let you draw any money? A No, sir.
Q Did you try to draw the strip money? A They said they never put my name on.

BY J. S. DAVENPORT:

Q You say you left the Indian Territory with George Starr? A Yes, sir; Miss Mayfield left with George Starr, young Jess and Tom Mayfield.
Q You came back to what district or what part of the Cherokee Nation? A I stopped in the Chockasaw Nation a while and I staid there, and when I went from there I went to Henry, I know him well because he raised me, old man Henry West.
Q Now, George Starr he left the Cherokee Nation the year before the war was declared, didn't he? A Not's I knows of.
Q You went with him? A Of course we got out of there because George did.
Q Were you there when George came? A Yes, sir.

BY COMMISSIONER NEEDLES:

Q Was that before the war or after the war? A During the war.

(By request of Attorney for Applicant this case is continued until a later date.)

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof. (Signed) J. O. Rosson.

Subscribed and sworn to before me this 17th day of April, 1901.

(Signed) C. R. Breckinridge.

Commissioner.

Testimony heard April 17, 1901.

GEORGE AMOS MAYFIELD, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A George Amos Mayfield.
Q What is your age? A About 50.
Q What is your post office? A You might say Muskogee.

BY J. F. FAULDS, Attorney for Applicant: Are you acquainted with Sallie Mayfield? A Yes, sir.
Q The one who has applied here for enrollment? A Yes, sir.
Q Did you know her before the war? A Yes, sir.
Q And during the war? A Yes, sir.
Q Do you know if she was a slave? A Yes, sir, she was a slave.
Q To whom did she belong? A Miss Sallie Mayfield.
Q Do you know whether she left here during the war, after the war had begun? A Somewheres along about that time.
Q And do you know when she cameback? A Yes, sir.
Q When? A Along about 1866 she came down to old man Walk Mayfield's place.
Q She has been here ever since? A Been around and about first one place and then the other; first one district and the other, along up there in Webbers Falls, first one place and another and back to Fort Smith getting grub and one think and another for her children.
Q You are a Cherokee Freedman, are you? A Yes, sir.

MR. J. S. DAVENPORT, Attorney for Cherokee Nation: Where were you during the war? A My folks before the war?
Q Where were you? A They taken me and carried me away to Texas.
Q How long did you stay in Texas; about how long? A Four years I guess.
Q When did you come back from Texas? A I came back about 1865.
Q Who did you come back with? A I came back with George Adair, him and Dick Fields.
Q Where was Sallie Mayfield, the applicant at this time?
A I don't know where she was.
Q Had you known Sallie Mayfield before the war? A Yes, sir.
Q Where had you known her? A I knowed her at my old home in Flint district.
Q How old was Sallie Mayfield when the war broke out? A I don't know.
Q Was she grown? A Yes, sir, grown and married.
Q When you came back from Texas, to what town did you come?
A Came right here.
Q Did you find Sallie Mayfield here when you came? A No, sir, I didn't find her here.
Q When did you next see Sallie Mayfield when you came back from Texas? A I seen her along, I can't say the month, I can't exactly tell; it was somewheres in the spring.
Q Now then what year did you come back from Texas? A I came back in 1865.
Q What time of the year 1865? A We started in March to come, and I got to the Creek Nation the last part of the month.
Q You came back then before peace was declared? A Yes, sir, I came back and came back in the Creek Nation the last part of March and I cropped with Mr. Fields.
Q Dick Fields? A Yes, sir, and Judge Adair.
Q Judge Adair in the Choctaw Nation? A No, sir, don't give me the Choctaw Nation, give me the Creek Nation.
Q That was in 1865? A Yes, sir.
Q Now then you came on back to the Cherokee Nation when? A In 1865
Q And you have resided continuously here? A Continuously backwards and forwards.

Q When did Sallie come back to the Cherokee Nation, if she ever came back? A Well she came back all right enough.
Q When was it? A I can't tell you the exact time when she came back, I didn't see her when she came back, I seen her after she came back.
Q When did you see her? A Along about 1866 when I seen her.
Q How do you know it was along in 1866? A I was talking with Judge Adair about it myself and Mr. Fields, and they told me themselves.
Q They told you themselves it was about 1866? Didn't say 1865 or 1867, but about 1866? A No, sir, I just asked them about what time it was.
Q She came to what point when she came back? A I seen her this side of Fort Smith, this side of old man Henry Mayfield; I was living here and happened to be down in this country.
Q How long did she live in Fort Smith before she came into the Nation? A I don't know.
Q You were living in Fort Gibson and she was living down there? A Yes, sir.
Q And you don't remember what year it was you saw her down there? A No, sir, I don't exactly remember, but it was in 1866, so I was told myself.
Q That fellow that told you is dead too isn't he? A Yes, sir.
Q You were grown at that time, wasn't you? A I must have been.
Q You know, don't you? A Yes, sir, I was just about grown.
Q Do you want to be understood that you don't remember whether it was 1866 or what year it was you saw this woman down there you had known before the war? A No, sir, I want to be understood it was 1866 I seen her.
Q You know it was 1866 you seen her? A Yes, sir.
Q And you were living near Fort Gibson and she in the southern part of the Nation? A Yes, sir, I happened to go down that way and happened to seen her; I was first here and then there, I didn't stay in one place all the time.
Q Where did Sallie Mayfield live when she returned to the Cherokee Nation? A She lived out here on the Canadian, she is living on the Canadian out on the bayou here in Illinois District now.
Q Has she resided continuously in the Cherokee Nation since she returned? A Yes, sir.
Q Don't you know she lived in Muskogee about ten years? A No, sir.
Q Have you know her continuously since she returned? A Yes, sir.
Q And known her to be living in the Cherokee Nation all the time? A Yes, sir, she has been in Muskogee, I have seen her there.
Q And she has lived there too you know? A No, sir, I know she has come to Muskogee.
Q The fact of the business is you don't know where she has lived all the time? A No, sir, not all the time.

Mr W. W. Hastings, Attorney for Cherokee Nation: Did you know the applicant Sallie Mayfield when the war broke out? A I did.
Q Where was she then living? A She was living in Flint District, so I heard.
Q Was she living there? A She had been living there.
Q Do you swear it? A Well I can swear it.
Q Do you fo that? A Yes, sir.
Q The Henry Mayfield you referred to is the same man known as Henry West that belonged to Walk Mayfield, Sequoyah district? A Yes, sir.
Q He was back there before this applicant, Sallie Mayfield, returned? A Yes, sir, he was there.
Q Walk Mayfield was also down there, was he, at the time she returned? A Yes, sir.

Mr. Faulds: Do you remember where you first saw her in the Cherokee Nation? A At Walk Mayfield's place.

Mr. Hastings: And he was there? A Walk, I think Walk was there, but old man Henry Mayfield was there himself, the old colored man that he woned.
Q Known as Henry West? A Yes, sir.

G. W. Vann, being duly sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A G. W. Vann.
Q What is your age? A I will soon by 87.
Q What is your post office address? A Benge.
Q Are you a recognized Cherokee Freedman? A I think not; they have been fighting me ever since I have been here.

MR. FAULDS: Where were you in 1861 when the war broke out, Mr. Vann?
A I was in Sequoyah District some time in Fort Gibson.
Q Did you know at that time Sallie Mayfield, the applicant for enrollment? A/ I did.
Q Where was she living at that time? A Part of the time she was somewhere up here in Flint, but when she started to go off she was in Sequoyah District; she taken two of my sisters with her, old Miss Mayfield.
Q Do you know where they went? A Texas they say, I didn't follow them.
Q Do you know whether she was a slave at that time? A I do.
Q To whom did she belong? A Old Mrs. Mayfield.
Q Where were you living in 1866? A Sequoyah; Sometimes here at Fort Gibson, sometimes at Tahlequah.
Q Do you know if she came back in that year? A She came here in August, 1866, right along in August.
Q Has she been here ever since? A I don't know, I have seen her sometimes, and sometimes I haven't.

Mr. Hastings: Where did you see her in August of 1866? A I was here down by old Henry Mayfield's, a negro that belonged to Walk Mayfield.
Q Known as Henry West? A Yes, sir.
Q In August of 1866? A Yes, sir.
Q To what Mayfield did this applicant, Sallie Mayfield, belong before the war? A Belonged to old Miss Mayfield.
Q What was her first name? A I don't know; why her name was Betsy; I believe her name was Sallie, I am not certain.
Q What was her husband's name? A Old man Mayfield.
Q Yes. A I am not certain, I believe his name was Bill.
Q Where did he live? A Lived on Blackburn prairie, up from the river right on the prairie.
Q In what district? A Sequoyah.
Q He lived there when the war broke out? A No, there is where they started from when they went to Texas.
Q When did they start to Texas? A Right along when the war began to get pretty hot.
Q Just at the beginning of the war? A No, sir, it was just after the beginning, it had been going on some time.
Q 1862 or 63? A No, sir, I wasn't sixty at all.
Q About what year? A Well, sir, that is a little farther than I know, I didn't take any particular notice what time they started, there was nothing particular to call my attention to it.
Q It was after the war of the rebellion had started up that old Miss Mayfield went to Texas? A Yes, sir, and taken two of my sisters.
Q Her husband was alive then, old Miss Mayfield's husband?
A I think not.
Q Did you know him? A Well I knowed him when he was alive, but I think not.
Q How long had you known him before that? A I had known him a long time.

Q How long had it been just before that that you had known he was living? A He lived in the years when I known him, but in the time of the rebellion they was running around about and I paid no attention till when they started off with my two sisters, and then I went to see them when they left.
Q You were there when they left? A Yes, sir.
Q And you don't remember whether they were alive or not? A No, sir, I don't remember; there were so many taking their negroes to Texas I think he was dead, I don't think he was alive.
Q You are certain it was after the war commenced? A Yes, sir, because they taken my two sisters with them.

COmmissioner Needles: The name of Sallie Mayfield is not found on the authenticated roll of 1880, or the census roll of 1896. Final judgment as to her enrollment as a Cherokee Freedman will be suspended, and her name will be placed upon a doubtful card.

George Amos Mayfield, recalled, testified:
Mr. Hastings: You applied to the Commission for enrollment?
A Yes, sir.
Q Have you been enrolled on a straight card? A I can't tell you, I applied at Muskogee.
Q Did they reject you? A I don't know whether they did or not.
Q Your name isn't on the 1880 roll? A I think it is.

MR. FAULDS: You go by the name of Boss Mayfield some times don't you? A No, sir, just the two names, George Mayfield and Amos Mayfield.

George Amos Mayfield is listed on Cherokee Freedmen rejected card No. 5.

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) Bruce C. Jones.

Sworn to and subscribed before me this the 18th of April, 1901.

(Signed) C. R. Breckinridge.

Commissioner.

---oooOOOooo---

J. O. Rossen, being first duly sworn as stenographer to the Commission to the Five Civilized Tribes, says that the above and foregoing is a true and correct copy of the testimony and proceedings in the case of Sallie Mayfield; said original transcript having been made by J. O. Rossen and Bruce C. Jones as stenographers.

J O Rossen

Subscribed and sworn to before me this 27th day of April, 1901.

Commissioner.

FILED

APR 27 1901

ACTING CHAIRMAN.

To be filed in the case of Emberry Mayfield, D.#131.

SUPPLEMENTAL: D. 91, Sallie Mayfield.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FT. GIBSON, I.T., APRIL 20, 1901.

In the matter of theapplication of Sallie Mayfield for enrollment as a Cherokee Freedman;

G. W/ Vann, being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A G. W. Vann.
Q Eighty-seven years old? A Yes, sir.
Q Post-office Benge? A Yes, sir.
Q You are the G. W. Vann who testified in the case of Sallie Mayfied on April 12th, 1901? A Yes, sir, and the only one that lives in Sequoyah District andsometimes Tahlequah? A Yes, sir.
Q You state you knew that Sallie Mayfield returned to the Indian Territory in 1866? A Yes, sir.
Q Do you desire to rectify that statement? A I do, sir, because it was in '70, because I was cutting wood, and I quit clearing below the rest there which went over the line and went to waiting on Colonel McCloud, and when she came to my--she lived with my sisters and they took them all together into Texas.
Q When was the next time you saw Sallie Mayfield? A I saw her from '70.
Q When was the first time you saw her after the Civil war? A About '70 is the first time ever I saw her.
Q You are satisfied now on reflection that the testimony you gave, saxating that you saw her in '66 was a mistake? A Yes, sir.
Q And that it was '70 instead of '66? A That is it; that's all the correction there is about it.
Q And you desire to rectify and recall your testimony of that day? A Yes, sir.

------ooo------

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) M. D. Green.

Subscribed and sworn to before me this April 22, 1901.

(Signed) T. B. Needles,
Commissioner.

---oooOOOooo---

J. O. Rossen, being first duly swern as stenographer to the Commission to the Five Civilized Tribes, says that the above and foregoing is a true and correct copy of the testimony and proceedings in the case of Sallie Mayfield; said original transcript having been made by I. M. ~~Xxxxx~~ M. D. Green, as stenographer.

J O Rossen

Subscribed and sworn to before me this 27th day of April, 1901.

Commissioner.

File with Emberry Mayfield, C.F. D-151.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Hannah West et al. for enrollment as Cherokee Freedmen.

Testimony introduced on behalf of Cherokee Nation.

Appearances:
Applicant not present;
W. W. Hastings, of counsel for Cherokee Nation.

Commissioner: Proof of notice to applicant filed, notifying her that testimony will be taken September 4, 1901; Applicant fails to appear either by herself or attorney.

MARK BEAN, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Mark Bean.
Q What is your age? A 58.
Q Your postoffice? A Evansville, Arkansas.
Q You a Cherokee by blood? A Yes, sir.
Q Do you know Sallie Mayfield, who was formerly a citizen of the Cherokee Nation? A Yes, sir.
Q Where did she live when you knew her first? A She lived in Flint district, Cherokee Nation.
Q What was her husband's name? A Jesse Mayfield.
Q Do you know whether or not she owned a colored woman by the name of Hannah West? A No, I don't know that.
Q Well, was Sallie Mayfield living in Flint district when the war came up? A No, sir.
Q Where was she? A She was living in Russ County, Texas.
Q How long had she been gone from this country when the war broke out? A She left Flint District in about 1847.
Q Where did she go from Flint district; did she go direct to Texas? A Direct to Texas.
Q She never returned here then till after the war? A No, sir, excepting on visits.
Q Have a home in Texas? A Home in Texas.
Q Staying in Texas? A Staying in Texas.
Commissioner: Did she ever remove to the Cherokee Nation afterwards? A Yes, sir.
Q When? A She moved back in about '68 or '9.
Q Was she readmitted to Cherokee citizenship then? A I think she was.
Q Do you know a slave of hers named Hannah? A I don't recollect.
Q You don't know then whether Hannah West was a slave of Sallie Mayfield or not? A No, sir.
Q You don't know anything about the return of Hannah West then? A No, sir.

L. B. BELL, being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A L. B. Bell.
Q What is your age? A 62, nearly 63.
Q What is your postoffice? A Vinita.
Q Do you know Sallie Mayfield, who was once a citizen of the Cherokee Nation before the war? A Yes, sir.
Q When did you know her? A Well, I guess about as far back as I can recollect, known her nearly continuously from the time, say '45 or '46, up to when she died; there was a little skip in my seeing her from 1847 till '55.
Q Well, do you know where she lived after 1847? A Well in 1847 she lived up there in Flint District, Cherokee Nation, and the

disturbance brought about here arising out of the treaty of 1835, they moved across the line to Arkansas for a little while, and then went back to Texas.

Q Did they come here after the war? A They went to Ross County, Texas, and lived there from that time till '83, and then I went to Texas, that is, members of our family, kin folks, and I stayed down there and knew them all along from that day till she came here and stayed a while, and died: she ~~lived~~ here from '47 continuously till about '67 or '8.

Q Have a home there in Texas? A Yes, they had a home.

Q Recognized citizen of Texas? A Was a cotton planter, had looked like 75 or 100 negroes.

Q Husband and family lived there? A Yes, the old man and wife and son and three or four daughters.

Commissioner: They returned to the Cherokee Nation in '67 or '8?

A Yes, ~~he~~ She was here in '67 or '8.

Q Were they readmitted to Cherokee citizenship? A Along somewhere after 1880.

Q Do you know Hannah West? A No, sir, I didn't know the negroes, there was too many to know.

***********

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and correct transcript of his stenographic notes thereof.

Bruce C Jones

Sworn to and subscribed before me this the 5th of November, 1901.

D B Needles

Commissioner.

File with Cherokee Freedmen D-151, Emberry Mayfield.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Houston West for enrollment as a Cherokee Freedman.

Testimony on behalf of Cherokee Nation.

Appearances:
Applicant not present;
W. W. Hastings, of counsel for Cherokee Nation.

Commissioner: Attorneys for Cherokee Nation make proof of service of notice that they will introduce testimony in this case on September 4, 1901.

W. T. HARNAGE, being duly sworn by Commissioner Needles, testified as follows:

Q What is your name? A W. T. Harnage.
Q What is your postoffice? A Tahlequah.
Q What is your age? A About 53.
Q You a Cherokee citizen by blood? A Yes, sir.
Q I believe you made a statement that you returned here in December of 1866, after the war? A Yes, sir.
Q To what part of the Cherokee Nation did you come? A Sequoyah district.
Q How far did you locate from Fort Smith? A Just across the river, about half a mile from the line.
Q What relation are you to Zeke Harnage? A Half brother.
Q Is he older or younger than you? A He is older.
Q Did you know Walk Mayfield? A Yes, sir.
Q What relation is he to you? A He is my uncle.
Q How long did you continue to remain down there in Sequoyah district immediately after you came? A I stayed there in the bottom until after Christmas, then I went up to Flint.
Q You stayed there until after Christmas of '66? A Yes, sir.
Q About the first of January? A About the first of January sometime.
Q Now did your uncle Walker Mayfield return when you lived there?
A No, sir.
Q Now how long did you remain up in Flint? A I stayed up there till about the middle of April and went back down in the bottom.
Q And when you came back had he returned then? A Yes, sir, he was there then when I went back to the bottom.
Q That was in April of what year? A '67.
Q But when you left there after Christmas of '66, about January, he hadn't come? A No, sir, he hadn't come in, we left him in Texas in the fall of '66.
Q You left him there? A Yes, sir.
Q Had he made a crop there in Texas that year? A Yes, sir.
Q You know what kind of a crop, cotton and corn? A Corn and cotton.
Q Well, how far did he locate from your place and from the place that you had stopped when you returned there in April of '67?
A About five miles.
Q He was your uncle? A Yes, sir.
Q Now when he came there you say in April, '67? A I came down in the bottom in April '67 and he was there when I came.
Q Walker Mayfield was? A Yes, sir.
Q You know when he came there? A No, sir, he came after I left. I left the bottom in January, '67, and went up to my uncle's in Flint and stayed there till April.
Q And he wasn't there when you left? A No, sir, but when I got back there, he was there.
Q That brings it to your memory that it was in '67? A Presume it

was in '66 when we came there, in the fall, and I stayed there till that Christmas.

Q You are positive of that? A Yes, sir, and after Christmas I went to Flint.

Q Couldn't have Walker Mayfield come to the Cherokee Nation before that date; you don't know when he actually did come, do you?

A No, sir, he wasn't there when I left.

Q He wasn't, you mean, on this place? A No, sir.

Q But you don't know whether he was in any other part of the Cherokee Nation when you left? A No, sir, I don't know whether he was.

Q The first time you saw him was in April, '67? A Yes, sir.

Mr. Hastings: I believe you stated you left him in Texas when you came up here? A Yes, sir, we left him in Texas when we started.

Commissioner: When was that? A In December, in November, '66.

Q He was living there then? A Yes, sir.

Q Did he bring his old slaves with him when he came back?

A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q When did you first see Houston West? A I saw them all together at that time.

Q Was Houston West in Texas when you left there? A Yes, sir.

Q Living on Mayfield's farm? A Yes, sir.

Q They made a crop there? A Yes, sir.

Q What kind of crop? A Cotton and corn.

EZEKIEL HARNAGE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Ezekiel Harnage.

Q What is your postoffice? A Foyil.

Q What is your age? A 59 years old.

Q You are a Cherokee citizen? A Yes, sir.

Q You were in Texas when the war closed, were you? A Yes, sir.

Q Now when did you return to the Cherokee Nation? A I came back on the 16th day of December, 1866.

Q Now to what part of the Cherokee Nation did you come? A Sequoyah District.

Q What relation were you to Walk Mayfield? A He was my second cousin; he was a first cousin of my mother's.

Q You and this other witness are half brothers? A Yes, sir.

Q Different mothers? A Yes, sir.

Q Now you came back, I believe you say, to Sequoyah District?

A Yes, sir.

Q Now you know Walk Mayfield, do you? A Oh yes.

Q Did you see him in Texas? A Yes, I saw him in Texas.

Q How far did you live from him down there, or did he from you?

A About a couple of miles, or hardly that far.

Q Did you leave him, or he leave you there? A I left him there.

Q You moved up in Sequoyah about December 16, 1866?

A Yes, sir.

Q Now what time did Walk Mayfield come to the Cherokee Nation?

A To the best of my knowledge Walker Mayfield came there along in the latter part of March, 1867.

Q Did he bring his slaves with him? A Yes, sir.

Q Did you know Houston West? A Yes, sir.

Q He had some boys, Houston, Calvin and George? A Yes, sir.

Q Did you continue to reside there in Sequoyah District from December 16 up until the following April, March or April?

A Oh yes, I was there all the while.

Q About how far did Walk Mayfield locate from you when he came?

A I could tell you four miles and a half, or five.

Commissioner: Did you know Houston West? A Yes, I knew them boys.

Q Did you have a sister named Mary? A I don't remember how many sisters about the place.

Q Well, Houston West was a slave of Walk Mayfield? A Yes.
Q When did you first see Houston, after the war? A I saw him after the war, after Mayfield come back to the Nation.
Q With Mayfield's family? A Yes, sir.
Q Are you positive Mayfield didn't come back to the Cherokee Nation until after January, 1867? A I am positive of it.
Q Is he living? A No, he is dead.
Q His wife living? A No, she is dead.
Q What fact fixes the date of Mayfield's return in your mind?
A The fact of the business is, the fact that fixes it in my mind was about going to work to make a crop.
Q Well, as to the year? A Oh, I know when I moved, and Walk Mayfield come the next spring like.
Q You know that you came in '66? A I know that, I am positive of the fact.
Q Where were you living in '65? A In Texas.

D. M. FALKNER, being duly sworn by Commissioner Needles, testified as follows:
Q What is your name? A D. M. Falkner.
Q What is your age, Mr. Falkner? A I am about 60.
Q What is your postoffice address? A Hanson, Indian Territory.
Q You a Cherokee by blood? A Yes, sir.
Q Mr. Falkner, you have been married, I believe, the second time?
A Yes, sir.
Q What was your first wife's name? A Her name was Rachel L. Adair.
Q That was her maiden name? A Yes, sir.
Q Was she any relation to Walker Mayfield? A Yes, sir, she claimed that Mayfield was her uncle.
Q Did you know Walk Mayfield yourself? A Yes, sir.
Q Where were you living in the year of '66 and the spring of '67?
A I was living in Sequoyah district, Cherokee Nation.
Q Did you know Walk Mayfield before the war? A Yes, sir.
Q When did Walk Mayfield return to the Cherokee Nation after the war? A Well, he returned about the first week of April, 1867.
Q Now Mr. Falkner, tell the Commission why you fix that time, all the circumstances? A Well, this young lady that I spoke of —
Q That you afterwards married? A Yes; she was boarding with my sister, teaching school, and the news come that her uncle had come home from Texas, just from Texas, and I went with her over there, that is about the first part of April, the first week, or the first of April, 1867, when we went, and they claimed they had just come in.
Q Well, how far was it that you had to go? A Four miles, and then I went with her over there, and the reason why I am so positive about it, me and her was married about ten or fifteen days after that; that is, this young lady.
Q Your first wife? A Yes, my first wife.
Q Rachel L. Adair? A Yes, sir, and I have got it in the bible at home, my marriage; we were married about a week or fifteen days after he came, and I think it is dated on the 17th of April, or the 27th of April, when me and her were married, and just a few days before that is when me and her went over there.
Q That is her uncle, Walk Mayfield? A Yes, sir.
Q You had heard of him coming these four miles here, and you went over there to see him, and they had just come in? A That is what they claimed, they had just come in.
Q You hadn't heard of him before that? A No, sir.
Q Did they have some slaves, colored people, with them? A Yes, sir, they had some there, of course I wasn't acquainted with the slaves, but there was an old man named Henry West, and I have known him ever since; they claimed he had brought in his slaves, and that old man was all I seen.
Q And they unloaded the wagons when you got there? A There was

a covered wagon standing there at the house when we got there.
Commissioner: What year were you first married, Mr. Falkner?
A It was in April, '67.
Q You are positive of that? A Yes, sir, I have got it in the bible at home.
Q You didn't know Henry West, a slave? A No, sir, I didn't know him, they told me them was his darkies, all I know.
Q You don't know of Walker Mayfield coming into the Territory before that time at some other point? A No, sir, that is the only time I heard about it, and I lived by him before the war.
Mr. Hastings: Your first wife is dead? A Yes, sir, she is dead.
Commissioner: Walker Mayfield dead? A Yes, sir.
Q His wife dead? A Yes, sir.
Q Any of his children living? A Well, I don't know, no, sir, all dead; he had three boys but they are all dead.
Q How far is this Walker Mayfield place, where he came to, from the Cherokee line? A It is about fourmiles and a half, or five; they crossed there at Fort Smith I suppose, to go to that place.
Q Four or five miles from that place to Fort Smith? A Yes, sir.
Q Coming from Texas then that would be the first place they would strike in the Territory? A Yes, sir.
Q There is where they all crossed? A Yes, sir.
Q Were you down in Texas? A No, sir, I was at Skulleyville, across the river there, in '65 and '66; '66 I moved over with my sister.

Commissioner: This testimony will be made part of the record in the cases of Callie West, D-1000, and George West, D-990.

**********

Bruce C. Jones, being duly sworn, says that as stenographer to the commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 16th of November, 1901.

M. D. Green
Notary Public.

appearing and known to be interested in the proceedings, then

of the aforesaid Commissioners to be taken and certified by

them to the First Assistant Secretary of the Interior, and

that the said five Commissioners be authorized to fix a time

and place for the taking of said depositions, and to issue

subpoenas for witnesses, and to do all other acts necessary

to the proper execution of the duties devolving upon them

under this order.

By Mr. Hemphill:

The Choctaw Nation now asks that the case of Maxfield et al. v. U. S. et al. be set for hearing on September 16, 1901, at 10 o'clock a. m. at the Indian Office, Washington, D. C.

Maxfield et al., U. S. et al.

Bill of Complaint to Quiet Title.

Motion for Order Setting Case for Hearing.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

COMMISSION TO THE FIVE CIVILIZED TRIBES
RECEIVED
SEP 14 1901

ACTING CHAIRMAN

Respectfully,

A. M. Pendleton,
Attorney for Choctaw Nation.

ATTORNEYS:

-No.-

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T. September, 11th 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Emberry Mayfield et al., C. F. D. [illegible]

[illegible]

APPEARANCES:

W. W. Hastings, Cherokee Representative.
Applicant present.

By Mr. Hastings:

The Cherokee Nation ask that the testimony of Mark Bean and E. T. Hall taken on September 4th 1901 in case of C. F. D. [illegible], which is the case of Hannah West, as to the citizenship and residence of Emily Mayfield be made a part of the record in this case. Also that the testimony of W. T. Hannah, Ezekial Hannah and D. M. Faulkner in the case of Houston West, C. F. D. #999, be made a part of the record in this case.

- - - - - - - - - - - -

Chas. von Weise, upon oath states that as stenographer to the Commission to the Five Civilized Tribes he reported the above proceedings in full and that the foregoing is a true and complete transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this 11th of September, 1901.

M D Green
N P
Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

---

In the matter of the application for the enrollment of Sallie Mayfield, et al., as Cherokee Freedmen, consolidating the applications of--

Sallie Mayfield, Cherokee Freedmen D- 91,
Thomas Mayfield, et al., Cherokee Freedmen D-124,
Emberry Mayfield, et al., Cherokee Freedmen D-131.

DECISION.

---

The record herein shows that applications for enrollment as Cherokee freedmen were made to this Commission by Sallie Mayfield for herself, by Thomas Mayfield for himself, his wife, Ella Mayfield, and his minor children, Hilert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas and Leonard Mayfield, the said Ella Mayfield claims only as an intermarried freedman and her rights are not passed on in this decision; and by Emberry Mayfield for himself and his minor daughter, Sallie Mayfield. A copy of the testimony of Mark Bean and L. B. Bell in Cherokee Freedmen D-43, and a copy of the testimony of W. T. Ramage, Ezekiel Ramage and D. M. Falkner in Cherokee Freedmen D-900, taken at Fort Gibson, Indian Territory, September 4, 1901, are filed herewith and made a part of the record in this case.

The evidence herein shows that the Sallie Mayfield and Thomas Mayfield first mentioned above are mother and son, and that they were both at one time the slaves of one Sallie Mayfield, who was a Cherokee citizen but who, prior to the commencement of the rebellion, removed to the State of Texas taking these two applicants with her and established a residence in said State; that the applicants, Hilert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas and Leonard Mayfield, are the minor children of the said Thomas Mayfield first mentioned above; and claim their right to enrollment through him; that the said Emberry Mayfield is a son of the said Sallie Mayfield first mentioned above, was born since the commencement of the rebellion, and therefore claims his right to enrollment through his mother, and the said Sallie Mayfield is the minor daughter of said Emberry Mayfield and claims her right to enrollment through her father.

It further appears from the evidence herein that neither the said Sallie Mayfield nor Thomas Mayfield first mentioned above

returned to and established a residence in the Cherokee Nation within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Moses Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation.

It further appears that the names of none of the applicants herein appear upon the 1880 authenticated Cherokee Roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Sallie Mayfield, Thomas Mayfield, her son; Milert Mayfield, Houston Mayfield, John Mayfield, Cornelia Mayfield, Fannie Mayfield, Hattie Mayfield, Emmett Mayfield, Thomas Mayfield and Leonard Mayfield, the children of said Thomas Mayfield; Emberry Mayfield and his daughter, Sallie Mayfield, as Cherokee freedmen should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898, (30 Stat., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED)

Chairman.

Commissioner

Commissioner.

Commissioner.

Muskogee, Indian Territory,

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 10 1901

ACTING CHAIRMAN

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on

by delivering a true copy thereof on the
day of A. D. 1901.

Given under my hand this
day A. D. 1901.

Marshal for Cherokee Nation.

---

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the
day of , 1901.

Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to

on the day of A.D. 1901

Subscribed and sworn to before me this day of A.D. 1901.

# NOTICE!

*IN THE MATTER OF* The application of Emberry Mayfield for enrollment as a Cherokee Freedman:

Case No. F. D. 131

To Emberry Mayfield, Ft

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Ft Gibson Indian Territory, on the following dates, to-wit: SEP 11 1901 A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this SEP 7 1901 day of ....., 1901.

R B Bell

*Attorneys for the Cherokee Nation.*

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
RECEIVED
SEP 7 1901

ACTING CHAIRMAN.

X 7 131

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

by delivering a true copy thereof on the ..... day of ..... A. D. 1901.

Given under my hand this ..... day ..... A. D. 1901.

Marshal for Cherokee Nation.

---

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the ..... day of ....., 1901.

Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to John F. Faulds atty for applicant on the 7th day of Sept A.D. 1901

John Rabb

Subscribed and sworn to before me this 7th day of Sept A.D. 1901.

J. C. Lee
Notary Public

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 7 1901

Acting Chairman.

# NOTICE!

*IN THE MATTER OF* The application of Emberry Mayfield for enrollment as a Cherokee Freedman:

Case No. F. D. 131

To Emberry Mayfield or Jno F. Tuller atty

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Muskogee Indian Territory, on the following dates, to-wit: Sept 11th A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 28 day of August, 1901.

L B Bell

*Attorneys for the Cherokee Nation.*

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mr. Emberry Mayfield,
Ft. Gibson, IL T.
Cherokee F-D-131
Register.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date APR 30 1901

Post Office Fort Gibson

District Illinois

1. Name Emberry Mayfield. Age 38.

Owner's name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father Miles Mayfield Citizenship Cad D

Mother Sallie Mayfield Citizenship Cad

2. Name of wife _____ Age _____

Owners name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father _____ Citizenship _____

Mother _____ Citizenship _____

Names of Children:

D Sallie Mayfield Year _____ Page _____ No. _____ Dist. 20.

4. _____ Year _____ Page _____ No. _____ Dist. _____

5. _____ Year _____ Page _____ No. _____ Dist. _____

6. _____ Year _____ Page _____ No. _____ Dist. _____

7. _____ Year _____ Page _____ No. _____ Dist. _____

8. _____ Year _____ Page _____ No. _____ Dist. _____

9. _____ Year _____ Page _____ No. _____ Dist. _____

10. _____ Year _____ Page _____ No. _____ Dist. _____

11. _____ Year _____ Page _____ No. _____ Dist. _____

12. _____ Year _____ Page _____ No. _____ Dist. _____

Application made by No (1) Stenographer Roman J. C.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Ft. Gibson, Ind. Ter. April 27th., 1901.

Received of the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application of Embery Mayfield, et al for the enrollment as Cherokee Freedmen of the Cherokee Nation.

J. T. Faulds

Attorney for Applicant.

Enc. D 131.

COPY.

Cherokee Freedmen
D-131.

Muskogee, Indian Territory, May 5, 1904.

Emberry Mayfield,

Fort Gibson, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, rejecting, among others, your application for the enrollment of yourself and your daughter, Sallie Mayfield, as Cherokee freedmen. Your attorney, A. S. McRea, Muskogee, Indian Territory, has heretofore been furnished with a copy of the record of proceedings and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Register
Enc. D-209.

COPY.

Cherokee Freedmen
D-91 et al.

Muskogee, Indian Territory, May 5, 1904.

A. S. McRea,

Representing J. F. Faulds,

Attorney for Sallie Mayfield et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Sallie Mayfield et al., rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Register
D-210.

COPY.

Cherokee Freedmen
D- 91 et al.

Muskogee, Indian Territory, May 5, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated April 20, 1904, in the consolidated case of Sallie Mayfield et al., rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles

Enc. D-911

Commissioner in Charge.

COPY.

Cherokee Freedmen
D-91 et al.

Muskogee, Indian Territory, May 5, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Sallie Mayfield et al., including the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Through the
Commissioner of Indian Affairs.

Enc. D-212.

Cherokee Freedmen
R-409

Muskogee, Indian Territory, May 28, 1906.

Emberry Mayfield,

Fort Gibson, Indian Territory.

Dear Sir:-

You are hereby advised that the motion filed by your attorneys September 7, 1905, for a review in your Cherokee freedman enrollment case, was dismissed by the Department May 2, 1906.

Respectfully,

Commissioner.

LMC

Muskogee, Indian Territory, May 28, 1906.

Blue & Bulger,
Attorneys for Eliza A. Arnold, et al.,
Vinita, Indian Territory.

Gentlemen:

You are advised that this office is in receipt of Departmental letter of May 2, 1906, a copy of which is enclosed herewith, denying motions filed by you September 7, 1905 for review in the Cherokee Freedmen enrollment cases of Eliza A. Arnold and others named in said letter.

Respectfully,

Commissioner.

MMP

Muskogee, Indian Territory, May 29, 1906.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Vinita, Indian Territory.

Dear Sir:-

You are advised that this office is in receipt of Departmental letter of May 2, 1906, a copy of which is enclosed herewith, denying motions by Blue & Bulger, filed September 7, 1906, for review in the Cherokee Freedmen enrollment cases of Eliza A. Arnold and others named in said letter.

Respectfully,

Commissioner.

Y265
Encl. C-2

Copy.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

Refer in reply to
the following:
Land.
31088-1904.

Washington, June 13, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes, dated May 5, 1904, transmitting the records of the applications of Sallie Mayfield and Thomas Mayfield for himself and his nine minor children, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas and Leonard Mayfield, and Emberry Mayfield for himself and his minor child Sallie for enrollment as Cherokee Freedmen.

April 20, 1904, the Commission found that the applicants were not entitled to enrollment as Cherokee Freedmen.

The evidence shows that the applicant, Sallie Mayfield, was the slave of a Cherokee citizen who removed with her slaves and other effects in the year 1847, and became a citizen of the State of Texas; that the applicant, Sallie Mayfield did not return to the Cherokee Nation on or before February 11, 1867.

The Commission appears to be in error in stating that Thomas Mayfield who is the son of Sallie Mayfield was taken out of the Cherokee Nation by a Cherokee citizen for the reason that Sallie Mayfield herself was but six years of age when taken out of the Nation.

It is also shown that Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas Jr., Leonard, Emberry, and Sallie Mayfield are descendants of the applicant, Sallie Mayfield and have no rights to enrollment except through her.

The names of none of the applicants are identified on the 1880 authenticated Cherokee roll.

In view of the record the approval of the Commission's action adverse to the applicants is recommended.

Very respectfully,

A. C. Tonner.

Acting Commissioner.

M.M.M.
W.

W.C.F.

J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON.

D.C. 21476-1904.

June 21, 1904.

I.T.D. 4880-1904.

LRS.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

May 5, 1904, you transmitted the record in the consolidated case embracing the applications of Sallie Mayfield, et al (F.D-91 et al), for enrollment as Cherokee freedmen, including your decision of April 20, 1904, rejecting the applications for the enrollment of Sallie, Thomas, Milert, Houston, John, Cornelia, Fannie, Hattie, Emmett, Thomas, Leonard, Emberry and Sallie Mayfield.

Reporting June 13, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision in so far as it rejects the applicants, is affirmed.

Respectfully,

(Signed) E. A. Hitchcock.

Secretary.

1 inclosure.

Cherokee Freedmen
D 151

Muskogee, Indian Territory, June 30, 1904.

Emberry Mayfield,

Fort Gibson, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting, among others, your application for the enrollment of yourself and your minor child, Sallie Mayfield, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 21, et al.

Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated April 20, 1904, rejecting the applications for the enrollment of Sallie, Thomas, Wilert, Houston, John, Cornelia, Bennie, Hattie, Bennett, Thomas, Leonard, Emberry and Sallie Mayfield as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cher.Fr.R-410

Cher.Fr.R-410

See Cher Fr. D-579, R-1111-12-13-14

Department of the Interior.
Commission to the Five Civilized Tribes.
Chelsea, I. T., June 7, 1901.

In the matter of the application of Katie Thornton for the enrollment of herself and two children as Cherokee Freedmen; she being sworn and examined by Commissioner T. B. Needles, testified asfollows:

Appearances: Mellette & Smith, for Applicants.
W. W. Hastings, for Cherokee Nation.

Q What is your name? A Katie Thornton.
Q How old are you, Katie? A I just really don't know, but they guessed at it before and they thought I was 65in the other court.
Q About five years ago? A Yes sir.
Q That will make you about seventy now? A Yes sir, I guess so.
Q What is your postoffice? A Hudson.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they under age and unmarried? A They are unmarried. I have two to enroll.
Q Are they under age? A Yes sir.
Q What are their names? A Maggie Curls.
Q Is she married? A Yes sir.
Q Are these children all married? A Yes sir, all married but two. The youngest one is Millie Thornton.
Q How old is Millie? A She is 19.
Q The name of the next child? A Emma Thornton.
Q How old is Emma? A 17.
Q Is your name on the roll of 1880? A No sir.
Q Did you draw what is known as the strip money? A Yes sir, I drawed strip money and Wallace money too.
Q Are you married now? A No sir, my husband is dead.
Q What was his name? A Henry Thornton.
Q Is he living? A No sir.

The 1880 authenticated roll and the 1896 census roll examined and the names of the applicants not found thereon.
The Kern Clifton Roll examined and the namesof the applicants are found thereon as follows:
Page 141, No. 3509, Katie Thornton, Cooweescoowee Dist.
Page 141, No. 3512, Millie Thornton, Cooweescoowee Dist.
Page 141, No. 3513, Emma Thornton, Cooweescoowee Dist.
The Wallace Roll examined and the name of the applicant is found on page 195, No. 3549, Katie Thornton, No District.

Q Have you got any witnesses, Katie? A Yes sir.
Q Who are they? A Harry Still, Jack Landrum, Frank Ross, and Lewis Whitmire.
Q Katie were you a slave? A Yes sir.
Q To whom did you belong? A John Thornton.
Q Was he a Cherokee citizen? A Yes sir, Cherokee citizen.
Q An Indian? A Yes sir.
Q Were you taken out of the nation during the war? A Yes sir.
Q Where to? A We went to Fort Scott.
Q Fort Scott, Kansas? A Yes sir.
Q Who did you go with? A We went out with the people that lived with Thornton, with Fannie Thornton.
Q Went out with Thornton's slaves? A Yes sir.
Q When did you come back? A Come back in '66.
Q You say you come back in '66? A Yes sir.
Q Where have you lived since that time? A I lived on Lightning Creek first.
Q Have you always lived in the Cherokee Nation since you come back? A Yes sir, never been no place else since I came back.
Q Where were your children, Millie and Emma born? A In the Nation.
Q Cherokee Nation? A Yes sir.

Q Have they lived in the Cherokee Nation ever since they were born? A Yes sir, them two live with me.
Q Your husband's name was Henry Thornton? A Yes sir.
Q How long has he been dead? A He has been dead, this May past, six years.
Q Have you married since? A No sir, never married since.
Q Was he your first husband? A Yes sir, he was my first husband.
Q He is the father of Millie and Emma? A Yes sir.
Q Was he a CherokeeFreedman? A Yes sir.
Q Who did he belong to? A He belonged to John Thornton.
Q Were you married to him before the war? A Yes sir, way before the war.
Q Did he go with you when you went out? A We went out together.
Q Did you return together? A Yes sir, both come back together.
N. W. Hastings: Did yourhusband join the army? the time of the war? A Yes.
Q He was in the army until the war closed? A No sir, he got hurt and he come home; he went out to chop some wood and he hurt his knee and he couldn't walk so they sent him home.
Q When did he come home? A He come home before the soldiers left Fort Scott.
Q About how long before the war closed? A They hadn't started out; they hadn't left Fort Scott.
Q And he remained there at Fort Scott afterwards? A No sir, we moved afterwards to Garnett with my mother, and after he got crippled I went there for protection, for them to help me.
Q What was your mother's name? A Lydia Ross; she belonged to Lewis Ross.
Q Did you stay in Kansas until after the war closed? A No, I came back in '66.
Q Well the war was over? A Yes, it was over then.
Q What is your oldest child's name? A Maggie Curls.
Q How old is she? A She is somewhere about 36 years old, as near as I can remember.
Q Where was she born? A She was born in Kansas, Maggie was.
Q About how old was she when she come to this country? A Somewhere near one year old.
Q What time in the year did you come here? A I come down here in the fall, in September, along in September.
Q Are you positive about that? A Yes, I am.
Q Who come with you? A I come along with Peter Meigsthen after they had gone after their family.
Q They had been here? A Yes sir, and come back.
Q Did your husband come with you? A Yes sir, we all come together.
Q Who else come besides Peter Meigs? A We were the last ones that started. There were three families.
Q Name them? A Peter Meigs, Caesar Smith, David Mayes; there was a lot of them in ahead of us, and we didn't get together; they lived in different places.
Q Did you start from Garnett? A I did; the others didn't live there; we got together on the road.
Q Was David Meigs along? A Yes sir, he was along; Uncle Pete and them had been here and went back after their families.
Q Are you certain that David Meigs' wife and family was along? A Yes sir.
Q Where did you come to down here? A We come to Big Creek, down there where they all lived, and stopped there and camped; we stayed there I believe one and a half days.
Q Then where did you go? A Nowhere; I live down to Lightning Creek.
Q Was Madden living there? A No, we made theplace.
Q The place that Madden is living on nowin A Yes sir; that is the first place I stopped to locate.
Q With the exception of a day or two you came directly to Madden's place? A No, I went to Mose Whitmire's a few days. We stayed

a day or two, and when I left there I come over to where we live.
Q Where you live now? A No, to where Madden lived.
Q How far does Madden live from Hayden? A I don't know; I guess about three-quarters of a mile.
Q What direction? A Kind of south.
Q Was there any house there thenon the Madden place, the place that you made? A No, there wasn't no house until we built it.
Q Built it that fall? A Yes sir.
Q Same fall you come? A Yes sir, the same fall we come.
Q Who helped your husband to build it? A Lewis Wright, Nels. Wright, Aaron and Mose Whitmire and Ransom Woodall; about one dozen or fifteen men.
Q Did you know any Cherokees living in that country then? A No sir, never saw any then.
Q Where did you get anything to eat? A When we wanted anything, a man had to go into the states; they were gone sometimes several days. I think they went in the states somewhere to get it.
Q Was Aaron Whitmire — did he have a field then? A No, they didn't have time to have no field; he just come in then.
Q Did he have a house? A He had some houses up.
Q Did you see Harry Still down there then? A I didn't see him when I first come.
Q How long after your first come was it? A I don't know how long it was before I saw Harry, but I saw his mother.
Q About how long afterwards? A I don't know; I never kept any account of it; I saw Harry but I don't know when.
Q Where was Harry living? A He said he come from his mother.
Q Where did she live? A She lived up on the prairie, on the hill from Hayden.
Q About how far from Hayden? A I couldn't tell; two miles or one-and a half miles.
Q Was she living in a house then? A She was living in a house there then.
Q Who was living with her? A This man Hayden.
Q About how far were they living from you? A I guess somewhere about two miles I guess.
Q In the same neighborhood? A All in the same neighborhood.
Q You knew her did you? A Yes sir.
Q Did you know her before? A I knowed her before the war.
Q And you got acquainted with her directly after you come down there? A Yes sir, all old acquaintances and we met each other.
Q Her name was Hayden then? A Not before the war; since the war it was.
Q Her husband was living with her then? A Yes sir.
Q In the fall of '66? A Yes sir.
Q You are positive about that? A Why of course I am.
Q They were living within two miles of you? A Yes, I guess it was, but I am not much of a judge to that.
Q Where was Mose Whitmire living then? A He lived right in front of me, not more than half a mile. He lived in front down the hill, and I lived on the hill; he lived in front of me.
Q Did he have a field then? A No, he didn't have no field.
Q Did he have any corn? A No, he didn'thave no corn; he had a little there, I don't know where he got that.
Q You just made that place on the public domain? A Yes sir, I made mine on the public domain.
Q Where did you live before the war? A I lived at John Thornton's.
Q In what part of the nation was that? A It is a queer name, but I can call the name.
Q What town is near there now? A There was no town there.
Q I mean now where Thornton lived? A I haven't been back there since I left; I don't know; I will think of the place directly.
Q Was it Tahlequah, or Flint, Goingsnake? A It was Goingsnake we lived.
Q How far did you live from Lewis Whitmire? A I think it was about three miles. I think it was about that far. I knew where they lived.

Q You and your husband come back down here together? A Yes sir, both come together.
Q Did you come in a wagon? A Yes sir.
Q Did you pass through any town from Fort Scott? A We didn't come from Fort Scott.
Q I mean Garnett? A We come through several little stations.
Q What stations? A I can't remember but one, and I don't remember whether I can remember that; I can't call the name; it has been so long, I forgot the name; we come through several stations; I can't think of them.
Q Do you think you came through Chetopa? A No, we didn't come through Chetopa.
Q Did you come through Coffeyville? A We come through Pumpkin, where old Parker used to be; that is the way I came.
Q Do you know Henry Armstrongthat lived by Goody's Bluff? A No sir.
Q Do you know Cal. Coker? A No sir, I don't know him either.
Q Was there any Delaware Indians living up there when you come? A No sir, I never saw them.
Q Have you seen any since? A Since then I have seen Delaware Indians time and again, and I see them every once in a while yet.
Q Did you have any witnesses before the Court before? A Yes sir, I had justone.
Q Which one? A Old man Peter Meigs.

Harry Still, being sworn by Commissioner Needles, and examined by Mr. Smith, Applicant's Attorney, testified as follows:
Q State your name? A Harry Still.
Q Where do you live? A Hayden.
Q How long have you lived in the Cherokee Nation? A All my life, 54 years.
Q Do you know this applicant, Katie Thornton? A Yes sir.
Q How long have you known her? A I knowed her ever since I was a little fellow.
Q Was she born a slave? A Yes sir.
Q Do you know who she belonged to before the war? A To Thornton.
Q What Thornton was that? A We called him Doc. Thornton.
Q Was he a citizen of the Cherokee Nation? A Yes sir. I don't know whether she belonged to him or his wife. I know she belonged in the Thornton family.
Q Do you know what Thornton's wife's name was before she married? A Frankie Thornton they called her.
Q Were they citizens of the Cherokee Nation? A Yes sir.
Q Where did they live before the war? A I think they lived in Goingsnake.
Q Did you see this woman, Katie Thornton, in the Cherokee Nation after the war? A Yes sir.
Q When did you first see her? A In the fall of '68.
Q Where? A On Lightning Creek she settled a place known now as the Bill Madden place. Bill Madden lives on her old place.
Q Was there any other members of her family with her, or was she by herself? A She had Henry, her husband; Maggie, she had two or three children and a step-son. I forget his name; he is dead. She had several children.
Q What is her husband's name? A Henry; he was a crippled man.
Q Do you know where this woman, Katie Thornton, has been living since that time? A Yes sir.
Q Where? A On Big Creek.
Q Do you know whether she has been living there continuously or not? A Yes sir.
Q Has she? A Yes sir, when she left Lightning Creek she went to Big Creek and stopped, and has been there ever since.
Q Has she any grown children who are married? A Yes sir.
Q Who are they? A Maggie.
Q Who is Maggie married to? A Julius Curls. That is her oldest girl. She had one that married Jesse Riley. I don't know her name, and she has a boy named Joe. She has several children.

Q Where does Jesse Riley's wife live? A Right across that hill there. (Indicating.)
Q How far from Chelsea? A I expect it is three miles or four.
Q Who does she live with? A Her husband.
Q What is his name? A Jesse Riley.
Q Where does Maggie Gurle live? A She lives right at the foot of that hill there. (Indicating.)
Q How far from Chelsea? A About two and a half or three miles.
Q Who does she live with? A Her husband.
Q Do you know where Joe Thornton lives? A Yes sir.
Q Is he married? A Yes sir.
Q Where does he live? A On Big Creek.
Q How long has he been there? A Ever since his mother left for Big Creek.
Q How long did you say that Joe Thornton had been living in the Cherokee Nation? A Ever since his father and mother moved to Lightning Creek. He never was out except across the line and then back home.
Q When did his mother move to Lightning Creek? A In the fall of '66; some time in December, I think.
Q Do you know when Katie's daughter, who is now married to Jesse Riley, do you know how long she has been married? A No sir, I don't know how long Maggie has been married. I don't know anything about the marriages. I know she is married. I know she lived in Vinita a while. I know she is married to Julius Gurle, but don't know anything about her marriage, where she married.
W. W. Hastings: How old are you? A About 54 years old.
Q You were about 18 years old when the war closed? A Yes, I reckon so. I might have been; I am about 54 years old now.
Q You are certain you saw this woman? A Yes sir.
Q You are positive about that? A Yes, I am positive. I have circumstances that make it positive.
Q You were living with your mother? A Yes sir.
Q On a place that you had made? A Yes sir.
Q You weren't living with Aaron Wright? A No sir.
Q Mr. Hayden was living with your mother at that time? A No sir.
Q Wasn't Mr. Hayden and his wife, who was your mother, living about two miles from this woman? A Yes sir.
Q Was Mr. Hayden there? A No, sir, Mr. Hayden wasn't there.
Q How many children did she have when you first saw her there? A She had three or four children.
Q Name them? A Maggie, and Jesse's wife, I don't know her name, and Joe and a step-boy, I forget his name.
Q You remember of seeing these four? A Yes sir, she had those four.
Q And they were there in the fall of '66? A Yes sir.
Q Did you testify for her five years ago that she came back in the fall of '66? A No sir.
Q You didn't say anything then about seeing her? A Yes sir, I said something about seeing her, and Albert Morris said she come to Big Creek in '66, and you remember it.
Q You didn't go on the stand then? A No sir.
Q You didn't witness for her? A No sir.
Q You were living over there two miles from her? A Yes sir.
Q And you saw rebuttal testimony go in against her, did you? A No sir, I didn't see any go in against her.
Q You didn't hear it? A No sir.
Q I thought you said you was present when Albert Morris testified? A I said I was talking down stairs with Albert Morris and you were there.
Q You didn't come up and witness for her? A No sir.
Q She made the Madden place, did she? A Yes sir.

Mr. Smith: How long was it before Mr. Hayden come down? A It was perhaps about six months before Mr. Hayden ever come to the Cherokee Nation, and he didn't stay no time then, he went back.
Q He himself was not there at the time you are speaking about? A No sir.
Q Where was Mrs. Hayden? A She was there on Lightning Creek, my mother was.
Q Is Mrs. Hayden your mother? A Yes sir.
Q How old were these children, Jesse Riley's wife and Maggie, who is now Maggie Curls, in 1866? A They were tolerably good size girls.
Q About how old? A I don't know how old theynwere. Maggie was a good size girl;I remember her and I remember the step-boy; the others I don't remember much about them, but I knew Henry then and have knowed them all my life, but I never paid any attention to the children.
W. W. Hastings: How old do you think Maggie was when you first saw her? A I never paid no attention, but I know she was with her mother.
Commissioner: You say Hayden wasn't there? A No sir, he wasn't there.
Q Would he come backwards and forwards occasionally? A Yes sir, he would come backward and forward occasionally.
W. W. Hastings: About how often did he come back? A I guess he come back two or three times before he come back to stay.
Q You testified that you bought that place from Sam Brad? A Yes sir.
Q When did you buy it? A '72 or '3.
Q Did Hayden ever live down there before that time? A No sir, my mother was there.
Q Mrs. Hayden lived up with Hayden in Kansas? A No sir, she never did.
Q She lived right down there, did she? A Yes sir, right where I brought her.
Q On the first place she made? A Yes sir.
Q She lived there for seven years? A Yes sir.

Frank Ross, being sworn by Commissioner Needles, and examined by Mr. Smith, Attorney for Applicant, testified as follows:
Q State your name? A Frank Ross.
Q Where do you live? A I live on Lightning Creek.
Q What is your postoffice? A Hayden.
Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant here, Katie Thornton? A Yes sir.
Q How long have you known her? A All my life.
Commissioner: Well how old are you? A 55.
Mr. Smith: Do you know whether she was a slave or not? A Yes sir, I do.
Q Was she? A Yes sir.
Q Whose slave? A She belonged to Lewis Ross' daughter, Minta Vann.
Q Was she an Indian? A Yes sir.
Q Cherokee Indian? A Yes.
Q Where did she live before the war? A She lived down close to Tahlequah.
Q Do you know whether Katie Thornton here was ever out of the Cherokee Nation, or what became of her during the war? A She went to Kansas during the war.
Q When did you first see her back in the Cherokee Nation after the war? A I saw her back in '66 on Lightning Creek;in the winter of '66 on the place where Bill Madden is living at now she was living.
Q Do you know where she has been living since that time? A She is living on Big Creek. After she moved from there, she moved to Big Creek.

Q Has she lived in the Cherokee Nation continuously since that time? A As far as I know, she has; I never heard of her being out.
Q Do you know her children? A I know them when I see them, I am not acquainted with them. I am acquainted with one of them, the oldest girl, Maggie.
Q Is she married or single? A She is married.
Q To whom is she married? A Julius Curls.
Q Do you know any others - of the older children over 21? A No sir, I am not well acquainted with them. I know them when I see them; she had a boy by the name of Billy, but he is dead.
Q Any other boys that you know? A No sir, not that I know of.
Q Are you acquainted with any other of her girls? A Jesse Riley has one of her girls, but I don't remember her name.
W. W. Hastings: Where were youliving after the war? A Living on Price Creek.
Q Below here? A Yes sir, below here.
Q This woman was living above you? A She was living on Lightning Creek; that is above me and way above me.
Q How far? A It must be 22 or three miles.
Q Did you testify for her five years ago? A No.
Q You weren't a witness for her then? A No, I wasn't; I knowed her alright, but I wasn't a witness for her.
Q Did you see her husband in '66? A Henry, yes sir, I saw him.
Q Where were they living then? A Where Bill Madden is living now.
Q What time in '66? A Along in the winter, a little before Christmas.
Q Did they have a house up there? A They were fixing to build a house; they didn't have one then; I didn't see any; they were fixing to build one.
Q Well were they in tents? A Yes, they were in a tent.
Q On the Madden place? A Right where the Madden place is now. Maddens are living in that house now.
Q Did you see any children with them? A I seen a boy, Billy, and a little girl.
Q Is that all? A That is all I noticed; I don't remember of anymore.
Q How long did you stay there at that time? A Four or five days.
Q With them? A No, I was there in the neighborhood with Nelson and Moss.
Q Do you undertake to say you remember of seeing people 35 years ago and remember the exact dates? A Yes sir.
Q And you are willing to swear to it? A Yes sir.

Jack Landrum, being sworn by Commissioner Needles, testified:

W. W. Hastings: Comes now the representative of the Cherokee Nation and protests against the introduction of this witness for the reason that he was called and sworn and put under the rule which has been explained to all these colored people for the past week or ten days, if notlonger, and this witness got up from the second bench from behind the rope in the crowd and was present during the taking of the testimony of the preceding witness, and was pretty near enough to hear the inquiries and answers made.
Mr. Smith: If the Court please, I don't know who was called and sworn.
W. W. Hastings: And the bailiff being asked by the Commissioner where he was, and he answered second seat.

Commissioner: Well you are under oath. Did you hear any part of the testimony that was given here in this case? A No sir, I didn't.
Q Where were you during the examination of these witnesses? A I was way back yonder, and I can prove it.
Q Weren't you on the second bench here? A No sir, I can prove that I wasn't.
Q Who can you prove it by? A By all the folks that are sitting back there.
Q Are you hard of hearing anyhow? A I can't hear very good.
Mr. Smith: Where were you when sworn and put under the rule- where did you go? A I went back there.
Q I don't know where you went to. Who was sworn with you? A Harry Still and Frank Ross.
Q Well where did you go when you were told to go out of hearing of the witnesses? A I went out of hearing of witnesses, but of course I was inside of the shade.
Q Did you stop at the place where you get up from when you were called? A No sir, I went way back yonder by the side of a woman and she can tell you I didn't hear anything.
Q Where were you standing or sitting, or whatever you were doing when your name was called here to come and testify? A I was way back there. I can tell you where I was sitting. I can tell you.
Q I would like to know? A I can put you right to the place. I know the rules; I was sitting out of hearing and never heard a think that was said here; that is right; of course, I wanted to sit in the shade.
Q Who was you sitting with, do you know? A I was sitting by the side of Buckner.
Q What Buckner? A George Buckner.

George Buckner, being sworn by Commissioner Needles, testified as follows:
Q What is your name? A George Buckner.
Q Do you know the witness here, Jack Landrum? A Yes sir.
Q Where was he sitting during the examination of this case? A Just at the very latter part of it he was sitting the second one from me. I was sitting near the north end of the second seat.
Q Did you hear any of the examination - what the witnesses said? A No sir, couldn't hear a thing.
Q Do yu think he could hear? A No sir, I don't think he could.
Q He was only there at the latter part of the examination? A Yes sir.
Q He had been in the back part before? A Yes sir.
W. W. Hastings: He was sitting on the second seat behind the rope? A Yes sir.
Mr. Smith of George Buckner: On what side of the tent? A On the north side.
Q On what side of the tent is this where you are now standing? A The south side.
Q He was on the opposite side of this tent where this testimony was being taken? A Yes sir.
Commissioner: Mr. witness, how far do you think it is he was? A If I can step it, I think I will know.
Q Well step it? A About 21 feet.
W. W. Hastings: Did you step from where the witness was sitting or did you make angles? A I went around to the bench.

W. W. Hastings: The representatives of the Cherokee Nation ordinarily would not feel called upon to be technical, but they remember that in this special case they asked that these witnesses be put under the rule; this witness as he testifies clearly understood that he should be put under the rule and he came back and the Commission itself ought to take notice of the fact, and as testified by the bailiff, within easy hearing of any witness upon this stand, and this testimony ought not to be allowed to be introduced.

Commissioner: Mr. Bukkner, you say you heard none of this testimony? A No sir.
Q And you were sitting beside of this man? A Yes sir.

Commissioner: Go on withthe witness.

Mr. Smith: State your name? A John Landrum.
Q What is your postoffice? A Hayden.
Q Where do you live? A I live on Lightning Creek, north of Hayden.
Q About how far north of Hayden? A About two miles.
Q Do you know this applicant, Katie Thornton? A Yes sir.
Q How long have you known her? A About thirty years or more.
Q You didn't know her before the war? A No sir, I didn't.
Q How far does she live from you? A She lived when shecome from the north I reckon to my place - she located there about - close by me; I live east of her and she lives west ofme.
Q Do you know who came there with her? A Yes sir.
Q Who? A Thornton, her husband.
Q What was his name? A Henry.
Q What year was that? A That was in '66; in the fall, with others; the latter part of winter kind of. It was in the winter.
W. W. Hastings: Where were you living at that time? A I was living on Salt Creek where I am living now.
Q The same place? A Yes sir, same place.
Q When did you move there? A In the fall of '66.
Q Had you built a house? A Yes sir.
Q How far did she locate from you? A About a mile I guess.
Q You didn't come up and testify for her five years ago? A No sir, I didn't; this is the first time.
Q Were you ever tried for anything in the courts? A No sir.
Q You never was up before any court? A No, not since they killed my son. When they killed my son I had the case tried down here on Dog Creek.
Q They never tried you for anything? A No sir, never was tried for anything.
Q How far did you live from this woman? A About one mile east of her.
Q How many children did she have when she come? A Two.
Q What were their names? A I can't remember the boy's name, and Maggie.
Q Was the other one her child? A Yes sir, it was the baby.
Q It was a baby when she come there? A Yes sir, I know it and I will swear and die on it.
Q Those were the only two children she had when she come there? A Yes sir.
Q And her husband? A Yes sir.
Q You are positive? A Yes sir, I am positive, and I will die with it.
Q Are you a preacher? A No sir.
Q How old are you? A I am 58 years old.
Q Do you know what year the war commenced? A Why no sir, I can't tell you.
Q Do you know what year the war closed? A No sir, I don't know anything about that.
Q Do you know any year? A I know one year from another.
Q You know '66, don't you? A Yes, any of us ought to know that.
Q Did you ever hear of any other year besides that? A I have heard of lots of them.
Q What other year? A August and September., July.

Q You heard of that year, have you? A Yes sir.
Q Are those the only years you heard of except '66? A Nosir, I heard of lot of them.
Q What other year have you heard of besides '66? A There is August, September, and there is May, April.
Q Those are years are they? A No, they are months.
Q What year have you ever heard of besides '66? A Now Mr. Hastings you ought not to ask me anything like that. I am not posted on anything of that kind.
Q Did these people come in a wagon? A Yes sir.
Q They made a house down there, did they? A Yes sir, they did.
Q Did you help build that house? A I helped to haul the logs.
Q And you didn't come and tell it for them five years ago? A No sir, I didn't.
Q Do you know when any one of her children were born after that?
A No sir.
Q You don't know any year since then? A No sir, I couldn't tell you anything like that.
Q Have you got a child by the name of George A Yes sir.
Q How old is George? A George is 19.
Q You know what year he was born in? A No, sir, I couldn't tell you.
Q What is your next oldest child's name, next to George? A Nancy.
Q Do you know what year she was born in? A No, I couldn't tell you.
Q Do you know what year you was married in? A No sir, don't ask me anything like that. I couldn't tell you anything like that because I can't. I couldn't tell the date.
Commissioner: You were a slave were you? A Yes sir.
Q Did you ever go to school? A No sir, I never did in my life.

Lewis Whitmire, being sworn by Commissioner Needles, and examined by Mr. Smith, Attorney for Applicant, testified as follows:
Q State your name? A Lewis Whitmire.
Q How old are you? A 62 years old.
Q Where do you live? A On Lightning Creek.
Q What is your postoffice? A Hayden.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life; never was out of the Cherokee Nation.
Q Are you on the roll of 1880? A Yes sir.
Q Are you a Cherokee citizen? A Yes sir.
Q Do you know this applicant, Katie Thornton? A Yes sir, I know her.
Q How long have you known her? A Why I have knowed her ever since she was a young woman, in slavery times.
Q To whom did she belong? Was she a slave? A To Dr. Thornton; she was a slave under Dr. Thornton.
Q Who was Dr. Thornton's wife? A She was a Alberty; she was John Alberty's daughter.
Q With whom, if you know, was this woman, Katie, living at the time the war commenced? A She was living with Dr. Thornton and his wife when the war commenced.
Q When did you first see this applicant, Katie Thornton, after the war? A I saw her up here on Lightning Creek.
Q Well where was that, in the Cherokee Nation or Kansas? A It was in the Cherokee Nation.
Q When was it, what year? A It was in the fall of 186
Q Do you know where she lies now? A Well, yes sir; I know where she lives; she lives on Big Creek now.
Q How far from you? A It must be 15 miles, I guess, and may be

more.
Q Where was she, at what point when you first saw her? A She was living on the place where Bill Madden is living now; her hus and took a claim there.
Q How long did she live at that point, or in that immediate neighborhood? A I don't remember how long he lived there before he sold out there and went away.
Q Do you know whether she had any children or not in '66? A I think she had three children as near as I can recollectnat that time.
Q Well do you know where they are now? A I don't know where the oldest is. No sir, I don't.
Q Were these children boys or girls? A I do know the oldest child was a boy and he died in Tahlequah after she lived up there. I know about that because I was there a week when they buried him.
Q Do you know anything about the girls? A I don't know about the girls; they moved from there and went to Big Creek and lived there.
Q Do you know whether they were ever married or not? A No sir, I don't.
W. W. Hastings: How much of a place did they make there, Lewis?
A They made a small place.
Q About how many acres? A I guess it must have been five or six acres they broke out.
Q How long did they live there? A Something over one year before he sold out.
Q Who did he sell to? A I think Harry Still bought the claim from him.
Q And they didn't sell to Madden then? A No, I think Harry Still sold to Madden.
Q '66 has been a long time ago? A Yes, it has been a long time ago.
Q Are you willing to come to the stand and testify for people when they come in and out of the country 35 years ago? Are you willing? A If I remember and know it, of course I am willing.
Q Did you testify for this woman five years ago - were you her witness five years ago? A I expect I was.
Q Do you know? A I don't know for certain, but I think I was.
Q Aint your memorymany better than that? A Why I remember that I witnessed for her once before this.
Q That was before the Kern Clifton Court? A I think it was eitherthe Kern Clifton Court or the Wallace Court one.
Q You are not positive now are you? A Why I am positive that I witnessed at one of these courts.
Q You are not positive which Court? A No sir.
Q Well now, how many children do you think she had when you first saw her there? A Why I don't remember well how many children she had because I didn't go around them people much, but I knew the boy and the oldest girl was big enough to go to our subscription school.
Q You mean her oldest girl was old enough to go to your subscription school? A Her oldest boy and girl.
Q That was the first year after she come down there? A It was the first year and may be the second year, if I aint mistaken.
Q How long did she live down there? A I told you how long she lived there as well as I recollect.
Q About how long then? A About two year.
Q That is your best judgment is it, Lewis? A Yes sir.
Q And she had a boy and a girl that went to your school? A She had a boy and a girl to go to school, and they were close neighbors to the school there when they were camping.
Q Do you know what the boy's name was? A I most forgot that boy's name; he has been dead so long. I think though his name was William.
Q Who taught that school? A I don't remember what person taught it; we had a subscription school though.

Q Where was the school located? A It was located right where we have a school house now.
Q What is known as the Harden school house where we took the census five years ago? A Yes sir.
Q The same place? A Yes sir, only it wasn't the same house.
Q It is a box house now? A Yes sir.
Q That was a log house then A Yes sir.
Q You don't remember who taught it? A No sir, we had so many teachers there, until we got a teacher furnished from the nation.
Q How is your recollection about dates? A good? No sir, I don't know nothing about dates, lebe I go out and make a trade with some man and happen to give him an offer for it, and he will date it, and I bring it home, and I know I made a certain sale at a certain date. I don't date my business; I have no education.
Q Do you know years? A I know years. I know when Christmas comes I know one year is gone.
Q That is all you know about it, is it? A Yes.

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Case continued by Stenographer J. O. Rosson.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. Rothesberger.

Subscribed and sworn to before me this 10th day of July, 1901.

Commissioner.

Supl.C.F.-D.#576.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 26th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of KATIE THORNTON, ET AL., as Cherokee Freedmen, introduced on part of the Cherokee Nation:

Appearances:
Mellette & Smith, Attorneys for Applicants;
Mr. Hastings, of Counsel for Cherokee Nation.

W. A. JOHNSON, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation.

MR. HASTINGS: What is your name? A W. A. Johnson.
Q What is your age, Mr. Johnson? A 71 years.
Q What is your post office? A Garnett, Kansas.
Q How long has that been your post office? A Since '58.
Q Were you acquainted with a colored man by the name of Henry Thornton? A Yes, sir, I was.
Q Did you know his wife? A I knew he had a wife and knew her, but I don't know her first name.
Q I will ask you what was Henry Thornton's physical condition?
A He was a cripple, he walked with one crutch.
Q What was his occupation? A He was a shoemaker.
Q How long did you know him there in Garnett after the war?
A Five or six years.
Q About when did you first learn to know him? A I am not certain when I first knew him, it was '66 or '67, somewhere along there is when he first came there.
Q Do you remember about the time that the colored people were allowed to vote in Kansas? A Yes, sir.
Q About when was that? A I think it was in '70.
Q Do you know whether or not Henry Thornton was there at that time?
A He was there during the time we were holding an election to amend out Constitution with reference to the question of suffrage.
Q When was that? A That was in '68, and I think he remained there about two years after that.
Q Did you know anything about his family? A No, I did not, in particular, about them.
Q I believe you say he was a cripple? A Yes, sir.
Q Walked on a crutch? A Used a crutch in getting around.

MR. SMITH: Mr. Johnson, it was either in '66 or '67 that you first knew him? A Somewhere along there I would not be positive.
Q Might have been '68? A I think I knew him a little earlier than '68.
Q But you can't be positive about that? A No, but I am positive about my knowledge of him in '68.
Q But back of that you are not positive? A Not when I first knew him, he worked in the shoeshop there with Mr. Seaters.
Q You don't know anything about his family? A I know he had a family.
Q How do you knew that? A I have seen his family.
Q Upon how many occasions did you see him in '68, except the one you mentioned in your testimony in chief? A Why I evidently saw him every day.
Q You think then you saw him every day during the year 1868?
A Every day when I was around town.
Q Well, you think he was around town there every day you were?
A Why, I think so.

Q You don't know that? A I never missed him.
Q You don't know that? A No, of course, there is a fact that exists that I recollect perfectly about his being there in 1868.
Q Well, tell that? A From hearing him as a witness in a suit there between two of our citizens and the peculiarity of his testimony, of which I am positive.
Q What suit was that? A It was a suit between Henderson Cavinder and Sam Cavinder.
Q Have you looked up the record to see when that was? A No, sir.
Q Do you know that occurred in 1868? A I know it occurred in '68 from the fact it was during the time we were discussing the question of amendments of our Constitution, from the conversation which took place between Cavinder and Henry Thornton.
Q You don't know whether the Katie Thornton who is an applicant in this case is in any way connected with the woman you are talking about? A No, I do not.

Taking of testimony continued by stenographer Chas. von Weise.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this November 12th, 1901.

Commissioner.

( Continued from stenographer John O. Rosson, at Vinita, I.T. Oct.26, 1901 )

WILLIAM RAY being first duly sworn by Com'r T. B. Needles, testified as follows for the Cherokee Nation

( By W. W. Hastings )

Q What is your name? A William Ray.
Q What is your age? A 63 past.
Q What is your post office address? A Garnett, Kansas.
Q How long have you lived in Garnett, Kansas? A Ever since '67 or '8.
Q I will ask you if you knew a colored man there by the name of Henry Thornton? A Yes sir.
Q In Garnett Kansas? A Yes sir.
Q Did you know his wife, Katie? A Yes sir.
Q Did he have any family then? A Yes sir.
Q Do you remember any of the names of the members of his family, the children ? A I don't recollect them at present , I dont know as I can call them.
Q What did Henry Thornton do? A He worked in a shoe shop.
Q Do you remember whose shoe shop it was he worked in? A Barney Setters if I am not mistaken.
Q Do you know when Henry Thornton and his wife Katie left there? A I know when they left , it was in '71.
Q What day in '71? A The first day of March, if I am not mistaken and I know I am not.
Q You know you are not? A Yes sir.
Q Who left with them? A My Brother in law and sister.
Q Where did they go to? A They said they was coming to the Cherokee Nation.
Q Had you seen Henry Thornton, the husband of Katie, frequently while they were living there at Garnett, Kansas? A Yes sir.
Q How frequently did you see him? A Well, at that time I was in town doing work around there and I saw him passing the shop very frequently.
Q Did you ever miss him for any length of time until he left there? A No sir.
Q How long was it after you came there before you became acquainted with him? A I can't just tell exactly what time, somewhere in about 3 or 4 months, 5 or 6 anyway.
Q Short time after you come there? A Yes sir.

( By Smith )

Q What time did you come there in '68? A In June.
Q How long then was it before he became acquainted with this man? A I cant say the date, 3, 4 or 5 months after.
Q Might have been sooner than that? A Might have been sooner and it might have been longer.
Q Might have been longer than that? A Yes sir.
Q You had no acquaintance with him before that time? A No sir.
Q Where did you ever see this man's wife——first? A That is something I dont know as I can speak where I first saw her; they lived on 7th Street when I first knew them, as to the time and date I cant say.
Q 7th street in Garnett, Kansas? A Yes sir.
Q How large was Garnett then? A Oh a small place.
Q How many stores? A 3 or 4.
Q Do you mean to say that they had the streets numbered then? A I think west and east they had numbered them——seems as if commences at first avenue and runs to 7th.
Q Do you know when they first commenced to number them? A No sir
Q You dont know if it was 7th street then or not? A It was on what they calls 7th street now.
Q You dont know where these people lived before you met them? A No sir, how could I?
Q You dont know if they were there all the time from the time you met them until they left, do you? A No sir I cant say as to that, not all the time I cant.
Q You know that they left on the first of March? A Yes sir

Q What makes you say it was the first of march? A Because I can prove it was the first of March.
Q How can you prove it? A I can prove it by identification; I dont know if the Colonel can recollect the date or not; if you want me to tell how I know it I will tell you.
Q I dont want to know how you can find it out at some other time,but how you know it now? A On or about two or three days before the first of March,John Tyler, my brother in law lived in the same block I did, Henry Thornton lived in the same block I did, and they both sold out on that day and fixed up their papers in Garnett and I can prove what I say; they sold to a man that lived in the same block, and I know I bid them good bye; my father started down here with them on the first day of March.
Q Have you examined the records since that time to find out when it was? A I dont know as I have, I looked up some back taxes once or twice and I found out it was a fact; I sometimes buy in property for taxes.
Q You just remember anyhow that it was the first of March? A I know it is a fact,Mr. Smith.
( By Hastings )
Q From the time you first knew him until he left you never missed him did you? A No sir I saw him every once in a while.
Q He owned property there did he? A He did.
Q And it was about that time that he sold it? A Yes sir.

HARRY STILL being first duly sworn by Com'r T. B. Needles, ~~testified as follows on the part of t~~ is recalled by the Cherokee Nation for further cross-examination:
( By Mr. Hastings )
Q What was Katie Thornton's husband's name? A Henry.
Q What was Henry's occupation? A Farmer.
Q Was he a shoemaker? A Not as I know of.
Q Was he a cripple? A Yes sir.
Q Walked on a crutch? A Yes sir.
Q You never knew him in Garnett,Kansas? A No sir.
Q He was a cripple? A Yes sir.

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This will be filed in the original application in Cherokee Freedmen Doubtful cases, D-578; D-579; D-580;D-581;D-582 and D-583.

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Chas. von Weise, being first duly sworn stats hat as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and thatthe foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this th 28th of October, 1901.

T. B. Needles
Commissioner

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
CHEROKEE LAND OFFICE.
October 16, 1906.

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Cherokee Card Freedman Rejected
No. 4ac.

-o-

In the matter of the enrollment of Emma Thornton.

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Emma Blair, being first duly sworn by B.P.Rasmus a notary public, was examined on behalf of the Commissioner and testified as follows:

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Q What is your name?
A Emma Blair.
Q You were enrolled as Emma Thornton, were you not?
A Yes, sir.
Q What is your age?
A 22.
Q What is your postoffice address?
A Vinita, Indian Territory.
Q You are a claimant to citizenship in the Cherokee Nation as a freedman citizen?
A Yes, sir.
Q When were you married?
A I was married the 4th.day of April, 1905.
Q To whom were you married?
A John Blair.
Q Is he a citizen?
A Yes, sir.
Q How old is he?
A I don't know how old he is.
Q About how old would you take him to be?
A About 23 or 24.
Q What was his postoffice address before you married him?
A Chaffee, Indian Territory.
Q Do you know the names of his parents?
A His parents is dead but Lizzie is the parent he enrolled w th.
Q Was he enrolled as a son of Lizzie Blair?
A I think so; I don't know much about his business.
Q Are you and he living together at the present time?
A Yes, sir.

Witness Excused.

I, George A. Lowell, being first duly sworn state that as stenographer to the Commissioner to the Five Civilized Tribes, I recorded the testimony in the above entitled proceeding and that the foregoing is a true and correct transcript of my stenographic notes thereof.

Geo. A. Lowell

Subscribed and sworn to before me this 16 day of October, 1906.

B.P. Rasmus
Notary Public.

WSDM

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
October 25, 1906.
Cherokee Freedman Rejected No. 410.

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In the matter of the enrollment of Millie Thornton.

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CHARLEY SMITH, being duly sworn by B. P. Rasmus, testified as follows:

BY COMMISSIONER:

Q What is your name? A Charley Smith.
Q What is your age? A 22.
Q What is your postoffice address? A Eaton.
Q What was your father's name? A T. Smith.
Q Was he ever known by any other name? A No.
Q Is he living? A No sir.
Q Did you ever hear of Henderson Smith? A Yes sir, father want by that name sometimes.
Q Who were you enrolled with? A Mary Webber.
Q Are you married. A Yes sir.
Q What is your wife's name? A Millie Smith.
Q Under what name was she enrolled? A Millie Thornton.
Q What is her mother's name? A Katie Thornton.
Q Has she a sister? A Yes sir.
Q What is her name? A Eliza, and one named Emma.
Q When were you married to her? A Been married four years the 25th of January.
Q Four years the 25th of next January? A Yes sir.
Q You were married in January of 1902 then? A Yes sir.
Q Are you and your wife living together now? A Yes sir.

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STATEMENT: Millie Thornton is identified as No. 2 on Freedman Rejected Card No. 410. Charley Smith is identified as No. 5 on Freedman Card No. 1428.

Chief Clerk Cherokee Land Office

Mabelle Cohenour, stenographer to the Commissioner to the Five Civilized Tribes states on oath that she reported the proceedings had in the above entitled cause on the above named date and that the foregoing is a true and correct transcript of her stenographic notes taken in said cause on said date.

Mabelle Cohenour

Subscribed and sworn to before me this 25th day of October, 1906.

Notary Public.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

705

In the matter of the application for the enrollment of Katie Thornton, et al. as Cherokee Freedmen, consolidating the applications of

| | | | |
|---|---|---|---|
| Katie Thornton, et al.,..... | Cherokee | Freedmen | D 578 |
| Maggie Curls,..... | " | " | D 580 |
| Joseph Thornton, et al.,..... | " | " | D 581 |
| Eliza Thornton, et al.,..... | " | " | D 582 |
| Lettie Lynch, et al.,..... | " | " | D 583 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission:-- by Katie Thornton for herself and her minor children, Millie and Emma Thornton; by Maggie Curls for herself; by Joseph Thornton for himself and his minor child, Ethel Thornton, and subsequent to the date of his original application a birth affidavit showing the birth of James Alven Thornton was filed and is made a part of the record herein; by Eliza Thornton for herself and her minor child, Bessie Williams, and by Lettie Lynch for herself and her minor children, Herbert Curls and Sedalia Riley.

The evidence shows that the applicant Katie Thornton was the slave of a Cherokee citizen at the commencement of the rebellion, and that she was taken out of the Cherokee Nation during the rebellion. She states that she returned to said Nation in the fall of 1866, with Peter Meigs and family; but this Commission has found, in the case of Elizabeth Meigs, Cherokee Freedmen D 591, that though Peter Meigs, himself, returned to said Nation prior to January 19, 1867, he did not bring his family with him until a subsequent trip made in the spring of 1867. Hence, it appears that Katie Thornton, who came with said family, did not return to the Cherokee Nation until after January 19, 1867.

The evidence further shows that the applicants Millie, Emma, Joseph, Ethel, James Alven and Eliza Thornton, Maggie Curls, Bessie Williams, Lettie Lynch, Herbert Curls and Sedalia Riley are the descendants of said Katie Thornton, born since the commencement of the rebellion, and have no rights as Cherokee Freedmen, except such as they may have acquired through her. None of the names of the applicants herein, are found on the 1880 authenticated Cherokee roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curlis, Joseph Thornton, Ethel Thornton, James Alvem Thornton, Eliza Thornton, Bessie Williams, Lettie Lynch, Herbert Curlis and Sedalia Riley as Cherokee Freedmen should be denied, under the provisions of section twenty-one of the act of Congress, approved June 28, 1898 (30 Stats., 496), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Chairman.

Commissioner.

C. R. Breckinridge
Commissioner.

W O Stanley
Commissioner.

Muskogee, Indian Territory,

this MAR -5 1900

32

IN RE
THE DEATH OF

Alfred Hamilton
a citizen of the
Cherokee Nation.

Approved OCT 16 1906 190

Commissioner.

COMMISSIONER TO THE FIVE CIVILIZED TRIBES

FILED

COMMISSIONER

FR. 210

# DEPARTMENT OF THE INTERIOR.

## COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the death of Katie Thornton
(Here insert name of deceased.)
a citizen of the Freedman Citizen of the Cherokee Nation, who formerly resided at or near
Hudson Ok
(Here insert Postoffice.) , Ind. Ter., and died on the 28th day of
March , 1906

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AFFIDAVIT OF RELATIVE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
DISTRICT. }

I, Joseph Thornton on oath state that I am 30
years of age and a citizen by Freedman of the Cherokee Nation;
that my postoffice address is Hudson , Ind. Ter.; that I am
a Brother of Katie Thornton
(State relationship: as the father; an uncle; a cousin, etc.) (Here insert name of deceased.)
who was a citizen by Freedman, of the Cherokee Nation
and that said Katie Thornton died on the 28th day of
(Here insert name of deceased.)
March , 1906

Witnesses to Mark: Joseph Thornton

(Must be Two Witnesses.) { J Boone
W J Bostain

Subscribed and sworn to before me this 16th day of October 1906

B. P. Ramsey
Notary Public.

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AFFIDAVIT OF ACQUAINTANCE.

UNITED STATES OF AMERICA, INDIAN TERRITORY, }
DISTRICT. }

I, Emma Blair Enrolled as Emma Thornton, on oath state that I am 22
years of age, and a citizen by Freedman of the Cherokee Nation;
that my postoffice address is Vinita , Ind. Ter.;
(Here insert name of postoffice.)
that I was personally acquainted with Katie Thornton
(Here insert name of deceased.)
who was a citizen by Freedman of the Cherokee Nation;
and that said Katie Thornton died on the 28th day of
(Here insert name of deceased.)
March , 1906

Witnesses to Mark: Emma Blair

(Must be Two Witnesses.) { J Boone
W J Bostain

Subscribed and sworn to before me this 16 day of October 1906

B. P. Ramsey
Notary Public.

DEPARTMENT OF THE INTERIOR

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Katie Thornton, et al., as Cherokee Freedmen, consolidating the applications of:-

| | |
|---|---|
| Katie Thornton, et al., | Cherokee Freedman D. 578, |
| Maggie Curls | Cherokee Freedmen D. 580, |
| Joseph Thornton, et al., | Cherokee Freedmen D. 581, |
| Eliza Thornton, et al., | Cherokee Freedmen D. 582, |
| Lottie Lynch, et al., | Cherokee Freedmen D. 583. |

AMENDED MOTION FOR REHEARING.

The records herein show that applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Katie Thornton for herself and her minor children, Millie and Emma Thornton; by Maggie Curls for herself; by Joseph Thornton for himself and his minor child, Ethel Thornton, and subsequent to the date of his original application a birth affidavit showing the birth of James Alven Thornton was filed and made a part of the records in his case; by Eliza Thornton for herself and her minor child, Bessie Williams, and by Lottie Lynch for herself and her minor children, Herbert Curls and Sedalia Riley.

The evidence shows, and the Commission to the Five Civilized Tribes so found, that the applicant, Katie Thornton, was the slave of a Cherokee Citizen at the commencement of the rebellion, and that she was taken out of the Cherokee Nation during the rebellion.

The evidence further shows, and the Commission so found, that all of the other applicants in this case have been born since the commencement of the rebellion and have no rights as Cherokee Freedmen except such as they may have claimed through the said Katie Thornton with the possible exception that Herbert Curls and Sedalia Riley may be entitled to enrollment through their father, Julius Curls, who is a descendant of Samuel Riley, deceased, and the case of these two children ought to be considered in connection with the application of their father in the Riley case as well as in the Thornton case in

which latter case they claim through their Mother.

The applicants respectfully pray that these consolidated cases be remanded by the Honorable Secretary of the Interior to the Honorable Commissioner to the Five Civilized Tribes in order that a rehearing be had and that the applicants be given an opportunity to introduce all of the testimony they have both from Garnett, Anderson County, Kansas and from the Cherokee Nation by which they expect to prove that Katie Thornton came to the Cherokee Nation and established her residence therein prior to February 11, 1867 and maintained such residence therein continuously thereafter until her death; that she kept up her residence in the Cherokee Nation regardless of the fact that her husband may have spent some time back at Garnett, Anderson County, Kansas; that at the time of the former hearing of this case the applicants did not know they could procure the testimony of the witnesses whose affidavits are hereto attached, and that they have recently come into the possession of the knowledge that the persons whose affidavits are hereto attached were material witnesses in their applications; that said applicants in their own feeble way had investigated and searched for testimony and had been unable to find it and that recently they caused investigation to be made at Garnett, Anderson County, Kansas, where they have found a great number of reliable citizens of Anderson County Kansas who will come down and testify that Katie Thornton left Anderson County Kansas and came to the Cherokee Nation prior to February 11, 1867 and never thereafter returned to Anderson County, Kansas; that applicants have a great number of witnesses in the Cherokee Nation by whom they expect to prove that Katie Thornton was an "actual personal bona fide resident of the Cherokee Nation, possessed having actually returned and established such residence in the Cherokee Nation on or before February 11, 1867."

In view of the fact that the Attorney for the Cherokee Nation in his protest against the Original Motion to reopen this case has objected to the original affidavit of S. M. Johnston because same was not signed by him, we have had the affidavit signed by him before Allen Mansfield, Jr., a Notary Public for Anderson County, Kansas and

the same is attahhed herete. The Attorney for the Cherokee Nation wants it understood that this J. M. Johnston is not the same J. M. Johnson who testified on behalf of the Cherokee Nation. We also want this to be very distinctly understood for thr reason that our witness is a man of high standing and his word in the community where he lives is as good as his bond and everybody beleives what he says. We can not speak so well for the other Johnson because every time we have been to Garnett, Kansas this man has been so drunk on the streets that we do not care to have our witness mixed up with him. Attorney for the Natian says that our former affidavits are stereotyped. We have re-written them before a disinterested Notary Public and had them signed and witnessed in the presence of disinterested witnesses in order that no complaint can be made on that account. In additional to the affidavits attached to the original Motion , we attached herete the affidavits of Betsey Whitmire and Eliza Whitmire. We are unable to attach the affidavit of the principal applicant, Katie Thornton, for the reason that she is now dead. It will be observed that the testimony of W. A. Johnson, on whom the Nation relies so strongly, does not pretend to say that Katie Thornton was in Garnett, Kansas during the time he says that Henry Thornton was there. It appears that the testimony of the said W. A. Johnson is aimed wholly at Henry Thornton and not at Katie Thornton, the applicant in this case. We expect to prove that the Nation's other witness, on whom the Attorney for the Nation relies so strongly, William Ray, is a negro and is disreputable and entirely unworthy of belief.

We have attached the affidavits of only a few of our witnesses and if a rehearing is granted to us, we will produce a sufficient number of witnesses to show conclusively that these applicants are entitled to be enrolled as Cherokee Freedmen. ~~[illegible]~~

It is true that Counsel for the Cherokee Nation says in his protest that this Motion is not made in good faith but this statement is so often made by the Nation's Attorney and has been so often disproved in the cases we have had remanded and tried again before the Honorable Commissioner to the Five Civilized Tribes. We have shown our

good faith in each case that has been remanded and we refer to the records in proof of same. These statements by the Nation's Attorney are coming so fast to us in protests against our Motions that we consider that the Attorney for the Nation is not serious in making them and we do not believe that he really believes that these Motions are made by us for the purposes of delay.

We feel assured that if this Motion for rehearing is granted that we will be able to produce at the hearing witnesses whose testimony will satisfy the Honorable Commissioner to the Five Civilized Tribes and the Honorable Secretary of the Interior that these applicants have a meritorious case and that they should be enrolled as Cherokee Freedmen.

RESPECTFULLY,

Starr & Patten

ATTORNEYS FOR APPLICANTS.

. . . . . .

UNITED STATES OF AMERICA,
INDIAN TERRITORY
NORTHERN DISTRICT } SS.

J. C. STARR, of lawful age, being first duly sworn, on his oath deposes and says that he is one ~~fax~~ of the Attorneys for Applicants in the above entitled case, and that this Amended Motion is made in good faith, not for the purposes of delay, but in order that justice might be done.

J. C. Starr

Subscribed and sworn to before me this 17th day of July, A.D., 1906

Seal

B. A. Smith

NOTARY PUBLIC.

My Commission expires Dec 4, 1907.

# A F F I D A V I T.

UNITED STATES OF AMERICA,
INDIAN TERRITORY
NORTHERN DISTRICT } SS.

On this day personally appeared before me, the undersigned, a Notary Public within and for the Northern District of the Indian Territory, Betsey Whitmire, who being first duly sworn, upon oath deposes and says:- "My name is Betsey Whitmire. My age is Sixty years and my Post Office is Hayden, Indian Territory. I was acquainted with Katy Thornton during her lifetime and I know that she came to the Cherokee Nation, Indian Territory, with her family and effects, and permanently located therein in the fall of the year of 1866.

her
BETSEY WHITMIRE
mark

Witnesses to mark
JESSIE PATTEN.
O. A. SMITH.

Subscribed and sworn to before me this 11th day of June A. D.,1906.

O. A. SMITH,
Notary Public.

(SEAL)

Commission expires Dec. 4,1909

# A F F I D A V I T.

UNITED STATES OF AMERICA,)
INDIAN TERRITORY ) ss.
NORTHERN DISTRICT )

On this day personally appeared before me, the undersigned, a Notary Public within and for the Northern District of the Indian Territory, Eliza Whitmire, who having been by me duly sworn, upon oath deposes and says:- "My name is Eliza Whitmire. My age is Sixty-nine years and my Post Office is Hayden, Indian Territory. I was acquainted with Katie Thornton during her lifetime and I knew that she came to the Cherokee Nation, Indian Territory, with her family and effects, and permanently located therein in the fall of the year of 1866.

her
ELIZA x WHITMIRE
mark

Witness to mark:
JESSIE PATTEN.
O. A. SMITH.

Subscribed and sworn to before me this 11th day of June A. D.,1906.

O. A. SMITH,
Notary Public.

(SEAL).

Commission Expires Dec. 4, 1909

UNITED STATES OF AMERICA,
STATE OF KANSAS, } ss.
COUNTY OF ANDERSON. }

On this the 13th day of July, 1906 personally appeared before me/ the undersigned, a Notary Public within and for the state and County aforesaid, J. M. Johnston of lawful age, who being by me duly sworn according to law, upon his oath deposes and says:-

"My name is J. M. Johnston. My age is Seventy four years. My Post Office is Garnett, Anderson County, Kansas, I was living in Anderson County, Kansas in the year in the year of 1866 and I knew Henry Thornton who was living in the vicinity of Garnett, Anderson County, Kansas. He was a shoemaker and he and his wife separated and his wife came to the Cherokee Nation, Indian Territory, in the fall of 1866."

J. M. Johnston

Subscribed and sworn to before me this 13th day of July, 1906.

(Seal.) Allen Mansfield Jr
NOTARY PUBLIC.

My commission expires,----------
March 5th 1908.

(Copy.)

Copy.

DEPARTMENT OF THE INTERIOR

COMMISSIONER TO THE FIVE CIVILIZED TRIBES

In the matter of the application for the enrollment of Katy Thornton et al as Cherokee Freedmen.

United States of America,
Indian Territory
Northern District SS AFFIDAVIT.

On this 7th day of July 1906, personally appeared before me the undersigned Notary Public duly Commisioned and acting within and for the Northern District of the Indian Territory, Tobias Bean of lawful age who being by me duly sworn according to law upon his oath deposes and says:

"My Name is Tobias Bean, my age is Seventy years and my post office is Ketchum, Indian Territory and I am duly enrolled and have received my allotment of land in the Cherokee Nation. I knew the applicant Katy Thornton during her life time and I knew her in Kansas. She lived near where I did. She left Garnett, Kansas in the fall of 1866 and came to the Cherokee Nation and established her residence therein and selected her a claim on Lightning Creek and continued to live in the Cherokee Nation continuously from the fall of 1866 until her death recently. She never went back to Garnett to live after the fall of 1866. The husband of Katy Thornton went back to Kansas at Different times to get work but his family remained in the Cherokee Nation continuously all the time from the fall of 1866.

I am not related to any of the applicants in this case and have no interest whatever in the case.

Tobias His X Mark Bean

Witnesses to mark:

W. M. Mitchell,
Vinita, I. T.

John W. Pyle,
Vinita I T

Subscribed and sworn to before me this 7th day of July 1906.

~~O. K. Smith~~

Notary Public.

My Commission Expires,
Dec 4, 1909.

FILED

ATTORNEYS FOR APPLICANTS.

VINITA, I. T.

DEPARTMENT OF THE INTERIOR

COMMISSIONER TO THE FIVE CIVILIZED TRIBES

In the matter of the application for the enrollment of Katie Thornton et al as Cherokee Freedmen.

United States of America,
Indian Territory
Northern District SS Affidavit.

Be It Remembered that on this day personally appeared before me the undersigned Notary Public within and for the Northern District of the Indian Territory Arhtur Bean, of lawful age who being by me duly sworn according to law upon his oath deposes and says:

"my Name is Arthur Bean my age is Sixty Three years and my post office is Chaffee, Indian Territory. I am a Cherokee freedman duly and lawfully enrolled as such and I have received my allotment of land in the Cherokee Nation, Indian Territory."

"I was acquainted with the applicant Katie Thornton and knew her at Garnett, Kansas. I know that she left Garnett Kansas and came to the Cherokee Nation in the fall of 1866 and lived in the Cherokee Nation from that time until her death. She located on Lightning Creek. Her husband went back to Kansas at different times to get work but his wife and members of his family remained in the Cherokee Nation and never lived outside of the Cherokee Nation after the fall of 1866.

I am not related to these applicants and have no interest in this case.

his
ARTHUR x BEAN
mark

Witnesses to Mark:

W. M. CHARLESWORTH
Vinita, Indian Territory

JESSIE PATTEN
Vinita, Indian Territory

Subscribed and sworn to before me this 7th day of July 1906.

O. A. SMITH
Notary Public.

(SEAL)

Commission Expires Dec. 4,1909

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

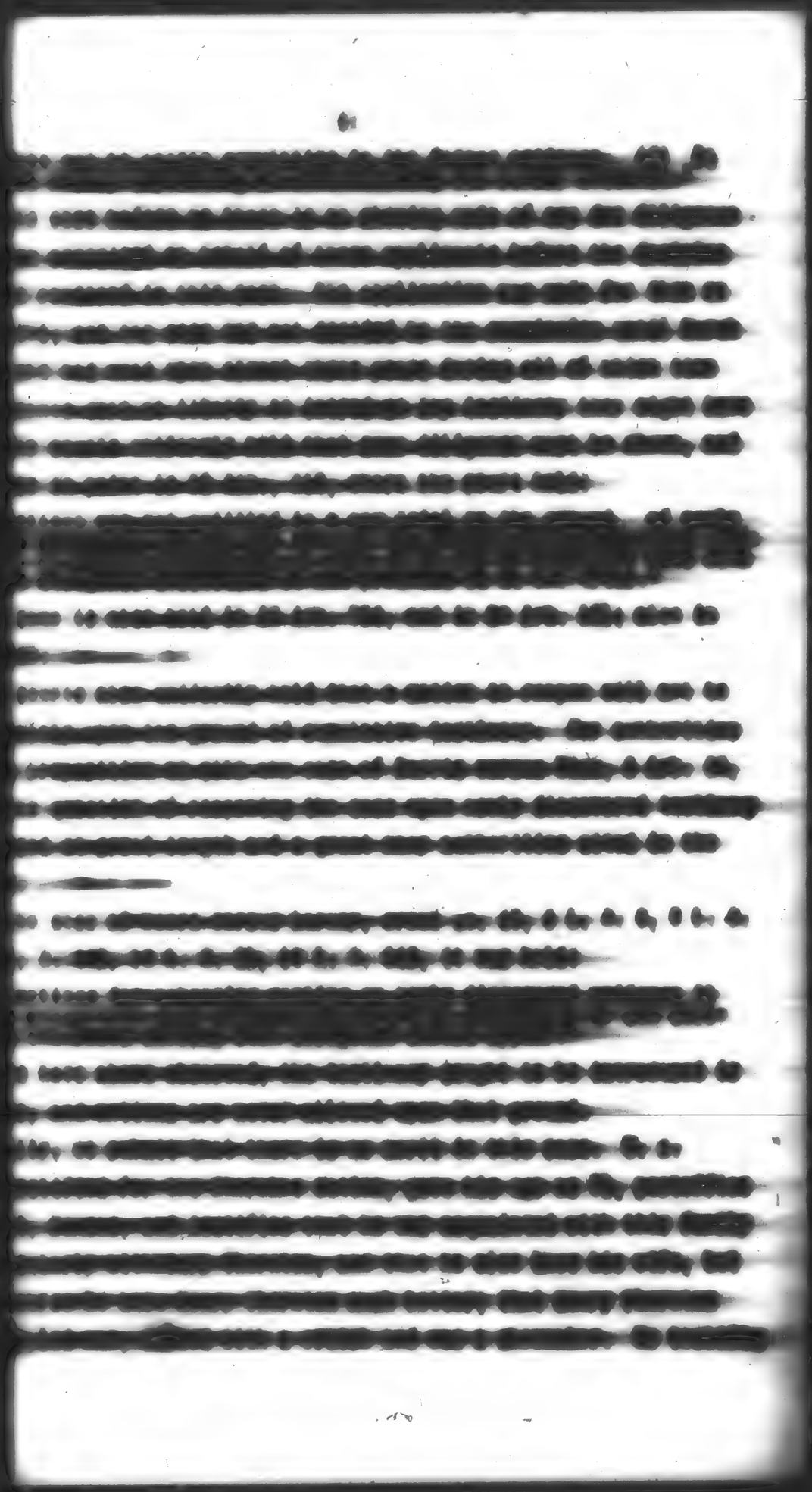
In the matter of the application for the enrollment of Katy Thornton, et al., as Cherokee freedmen, consolidating the applications of,

Katy Thornton, et al.,.....Cherokee freedmen D 6[illegible],
Maggie Curlis,.....Cherokee freedmen D 6[illegible],
Joseph Thornton, et al.,.....Cherokee freedmen D 6[illegible],
Kizzie Thornton, et al.....Cherokee freedmen D 6[illegible],
Lettie Lynch, et al.....Cherokee freedmen D 6[illegible].

Protest of Cherokee nation against motion to reopen.

The record shows that these applicants were rejected by the Commission to the Five Civilized Tribes on March 5, 1904, and that the decision was affirmed by the Secretary on June 21, 1904. The record further shows that the applicants introduced five witnesses before the commission to the Five Civilized Tribes. She was represented by Mullette & Smith when she first appeared and she and her witnesses were examined by this firm of attorneys and the witnesses introduced on behalf of the Cherokee nation were also cross-examined, and these witnesses, W. A. Johnson and William Ray, testified unequivocally that this family lived at Fayetteville, Arkansas until 1871. Of this there can be no question. Neither Johnson nor Ray had any interest whatever in the result of the case and their testimony was so convincing to the commission to the Five Civilized Tribes that they had no hesitancy in denying the applicants, and it was so positive, straightforward and convincing to the Department that the Department at once affirmed the decision. We trust that we may be pardoned for saying that certainly this motion is not made in good faith. An unsigned ex parte statement purporting to be an affidavit is attached to the motion for a rehearing purporting to have been made by J. K. Johnston. This man has been conspicuous for making a number of affidavits recently and his name is not signed to any of them. He is not the same J. K. Johnston who testified on behalf of the Cherokee nation, however. The next affidavit is signed by Leander Dean, a negro, and the next by Joe Dean by X mark, witnessed by J. C. Starr, another above-signed affidavit, and the last is







Copy

Seiger, Storr & Patton
Attorneys at Law
Rooms 4, 5 & 6 Lemler Building
Cherokee Enrollment Practice a Specialty
Vinita, Ind. Ter., May 11, 1906

Mr. John Ray,
Tulsa, I. T.

Dear Sir:-

We desire to call your attention to the following provision of the Curtis bill approved April 26, 1906:-

"Any motion to re-open or re-consider any citizenship case in any of said tribes shall not be entertained unless filed with the commissioner to the five Civilized Tribes within sixty days after the date of the order or decision, such to be reconsidered, except as to decisions made prior to the passage of this Act."

Can you prove that you was a slave of a Cherokee citizen at the commencement of the Rebellion and that you returned to the Cherokee Nation before Feb. 11, 1867? If you can prove this by reputable witnesses, we would be glad to figure with you to handle this case for you. You have 60 days from April 26, 1906 within which to get a motion filed.

Yours truly,
(Signed) Storr & Patton

UNITED STATES OF AMERICA,
[redacted]
[redacted] } ss.

H. M. Vance of lawful age, being duly sworn, states on his oath that the above and foregoing is a true and correct copy of the original.

H. M. Vance

Subscribed and sworn to before me this the 19th day of June, 1906.

Jay P. Farnsworth
Notary Public.

My Com. Ex. Aug. 6, 1908.

(Seal)

Copy

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Katie Thornton et al., as Cherokee Freedmen, consolidating the applications of

| | | |
|---|---|---|
| Katie Thornton et al | Cherokee Freedmen D 578, | FR 410 |
| Maggie Curls | Cherokee Freedmen D 580, | " 411 |
| Joseph Thornton et al | Cherokee Freedmen D 581, | " 412 |
| Eliza Thornton et al | Cherokee Freedmen D 582, | " 413 |
| Lottie Lynch et al | Cherokee Freedmen D 583. | " 414 |

M O T I O N  F O R  R E H E A R I N G.

The records herein show that applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Katie Thornton for herself and her minor children, Millie and Emma Thornton; by Maggie Curls for herself; by Joseph Thornton for himself and his minor child, Ethel Thornton, and subsequent to the date of his original application a birth affidavit showing the birth of James Alven Thornton was filed and made a part of the records in his case; by Eliza Thornton for herself and her minor child, Bessie Williams, and by Lottie Lynch for herself and her minor children, Herbert Curls and Sedalia Riley.

The evidence shows, and the Commission to the Five Civilized Tribes so found, that the applicant, Katie Thornton, was the slave of a Cherokee Citizen at the commencement of the rebellion, and that she was taken out of the Cherokee Nation during the rebellion.

The evidence further shows, and the Commission so found, that all of the other applicants in this case have been born since the commencement of the rebellion and have no rights as Cherokee Freedmen except such as they may haveclaimed through the said Katie Thornton with the possible exception that Herbert Curls and Sedalia Riley may be entitledto enrollment through their father, Julius Curls, who is a descendent of Samuel Riley, deceased, and the case of these two children ought to be considered in connection with the application of their father in the Riley Case as well as in the Thornton case, in

which latter case they claim through their Mother.

The applicants respectfully pray that these consolidated cases be remanded by the Honorable Secretary of the Interior to the Honorable Commissioner to the Five Civilized Tribes in order that a re-hearing be had and that the applicants be given an opportunity to introduce all of the testimony they have both from Garnett, Anderson County Kansas and from the Cherokee Nation by which they expect to prove that Katie Thornton came to the Cherokee Nation and established her residence therein prior to February 11, 1867 and maintained such residence therein continuously thereafter until her death; that she kept up her residence in the Cherokee Nation regardless of the fact that her husband may have spent some time back at Garnett, Anderson County Kansas; that at the time of the former hearing of this cause the applicants did not know they could procure the testimony of the witnesses whose affidavits are hereto attached, and that they have recently come into the possession of the knowledge that the persons whose affidavits are hereto attached were material witnesses in their applications; that said applicants in their own feeble way had investigated and searched for testimony and had been unable to find it and that recently they caused investigation to be made at Garnett, Anderson County Kansas, where they have found a great number of reliable citizens of Anderson County Kansas who will come down and testify that Katie Thornton left Anderson County Kansas and came to the Cherokee Nation prior to February 11, 1867 and never thereafter returned to Anderson County Kansas; that applicants have a great number of witnesses in the Cherokee Nation by whom they expect to prove that Katie Thornton was an "actual personal bona fide resident of the Cherokee Nation, .......... having actually returned and established such residence in the Cherokee Nation on or before February 11, 1867".

We attach hereto the affidavits of a few of our witnesses for the purpose of showing the Department that this Motion for re-hearing is made not for the purposes of delay but in good faith in order that

justice be done.

We have attached only the affidavits of a few of our witnesses and if a rehearing is granted us we will produce a sufficient number of witnesses to show conclusively and unerringly that these applicants are entitled to be enrolled as Cherokee freedmen.

Respectfully,

Starr & Patten

Attorneys for applicants.

UNITED STATES OF AMERICA,
INDIAN TERRITORY
~~NORTHERN~~ Western DISTRICT } ss.

J. C. STARR of lawful age, being duly sworn, on oath states that he is one of the Attorneys for the applicants and that this Motion is made not for the purposes of delay but in order that justice be done.

J C Starr

Subscribed and sworn to before me this 7th day of June, A.D.,1906.

Copy

Jessie Patten

Notary Public.

My Commission expires ~~December~~

UNITED STATES OF AMERICA )
INDIAN TERRITORY. ( ss.
WESTERN JUDICIAL DISTRICT)

On this 24th day of May, A. D., 1906 personally appeared before me, the undersigned, a Notary Public duly commissioned and acting within and for the Western District of the Indian Territory, J. M. Johnston, of lawful age, who being by me duly sworn according to law, upon his oath deposes and says:-

"My name is J. M. Johnston. My age is Seventy-four years. My Post Office is Garnett, Anderson County, Kansas. I was living in Anderson County Kansas in the year of 1866 and I knew Henry Thornton who was living in the vicinity of Garnett, Anderson County, Kansas. He was a shoemaker and he and his wife separated and his wife came to the Cherokee Nation, Indian Territory, in the fall of 1866".

I hereby certify that the above statements were made by the Affiant, J. M. Johnston, under oath, he being first duly sworn that the statements he would make would be the truth, the whole truth and nothing but the truth.

In Witness Whereof, I have hereunto set my hand and seal as such Notary Public on the day and year first above written.

JESSIE PATTEN,
Notary Public.

(SEAL)

My commission expires December 16, 1909.

IN THE DEPARTMENT OF THE INTERIOR

WASHINGTON.

In the matter of the application for the enrollment of Katy Thornton et al asCherokee Freedmen.

Leander Bean of Lawful age being duly sworn on his oath states: "My Name is Leander Bean, my age is Fifty-Six years and my Post Office is Vinita I. T. I was acquainted with the applicant Katy Thornton in her life time. She came with her husband to the Cherokee Nation in 1866 and located on Lightning Creek and lived there for awhile and then went to Big Creek and I know that she has lived and maintained her home in the Cherokee Nation continuously since the fall of 1866.

Leander Bean

Subscribed and sworn to before me this April 28, 1906.

O. A. Smith

Seal

Notary Public.

( C O P Y.)

# A F F I D A V I T.

UNITED STATES OF AMERICA,)
INDIAN TERRITORY ( SS.
NORTHERN DISTRICT )

On this day personally appeared before me, the undersigned, a Notary Public within and for the Northern District of the Indian Territory, Joe Bean, who being first duly sworn, upon oath deposes and says:- "My name is Joe Bean. My age is 61 years and my Post Office is Chaffee, Indian Territory. I was acquainted with Katy Th Thornton and I knew her husband, Henry Thornton during her lifetime and I know that they came to the Cherokee Nation, Indian Territory, with his famioly and effects and permanently located therein in the fall of the year of 1866.

his
JOE x BEAN.
mark

Witness to Mark,
J. C. STARR.

Subscribed and sworn to before me this 11th day of May, A. D.,1906.

O. A. SMITH,
Notary Public.

(SEAL)

Commission Expires Dec. 4, 1909.

IN THE DEPARTMENT OF THE INTERIOR

WASHINGTON.

In the matter of the application for the enrollment of Katy Thornton et al as Cherokee Freedmen.

Tobias Bean of Lawful age being duly sworn on his oath deposes and says: "m Name is Tobias Bean my age is seventy years and my post office is Ketchum I. T. I was acquainted with Katy Thornton in her life time. I know that she came from Garnett Kansas to the Cherokee Nation in the fall of 1866 and selected her a claim on lightning creek in the Cherokee Nation and I know that she has resided in the Cherokee Nation from the Fall of 1866 until her death recently.

Tobias Bean

---

Subscribed and sworn to before me this 28th day of April 1906.

O. A. Smith

(Copy.) Notary Public.

E 7 19 678

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
MAR 19 1902

ACTING CHAIRMAN.

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Katie Thornton,
Hudson, I. T.
Cherokee F-D-578
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 7 1901
Acting Chairman

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date JUN 7 - 1901.

Post Office Nowata, I.T.

District COOWEESCOOWEE.

1. Name Doubtful Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

2. Name of wife Kate Thornton Age ~~35~~ about 30

Owner's name John Thornton Citizenship Colored

Year N. B. Page 141 No. 3509 District COOWEESCOOWEE.

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Willie Thornton Year N. B. Page 141 No. 3511 Dist. COOWEESCOOWEE. 19

4. Emma " Year N. B. Page 141 No. 3513 Dist. " 17

5. Year Page No. Dist.

6. Year Page No. Dist.

7. Year Page No. Dist.

8. Year Page No. Dist.

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by No 1 Stenographer O.V. Rothwell

Julia Wallace not P 195 No 3514, no dist

Represented by Mellett & Lewis Nowata I.T.

Represented by Mellett & Lewis Nowata I.T.

JUN 7 - 1901 JUN 7 - 1901

6 30 598

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 20 1901

ACTING CHAIRMAN

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, August 6, 1901

Received of the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application of Katie Thornton for enrollment as Cherokee freedman.

Wallace & Wallace
Attys for applicant.

Cherokee Freedmen # D578

Cherokee Freedmen
D 878

Muskogee, Indian Territory, March 21, 1904.

Katie Thornton,

Hudson, Indian territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting, among others, your application for the enrollment of yourself and your two minor children, Millie and Emma Thornton, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Encl. V-56 Commissioner in Charge.

Registered.

Cherokee Freedmen
D-378.

Muskogee, Indian Territory, April 26, 1904.

Katie Thornton,
Hudson, Indian Territory.

Dear Madam:

In reply to your request of April 18, there is herewith enclosed a copy of the testimony in your application for enrollment as a Cherokee freedman.

Respectfully,

Enc. D-15.

Chairman.

COPY

Refer in reply to the following

Land 20179-1904.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, June 9, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes, dated March 21, 1904, transmitting the record of the applications for enrollment as Cherokee Freedmen of Katie Thornton, and her minor children Millie and Emma Thornton; by Maggie Curls for herself; by Joseph Thornton for himself and his minor children Ethel and James Alvan Thornton; by Eliza Thornton for herself and herminor child, Bessie William, and by Lottie Lynch for herself and herminor children, Herbert Curls and Godalia Riley.

March 5, 1904, the Commission found that the claimants were not entitled to enrollment as Cherokee Freedmen.

The evidence shows that the applicant, Katie Thornton was the slave of a Cherokee citizen at the commencement of the war of the Rebellion and that she was taken out of the Cherokee Nation during the rebellion. She states that her eldest child, Maggie was born in the year 1865 in Kansas, and that she returned to the Cherokee Nation in the fall of 1866.

Her witness, Harry Still, swears that he saw the applicant, Katie Thornton, in the Cherokee Nation in the fall of 1866,

and that she had with her Maggie and two or three younger children of her own. Her witness, Lewis Whitmire, swears that he saw the applicant, Katie Thornton, in the Cherokee Nation in the fall of 1866, and that she had three children and the eldest two went to school. With the eldest child of the applicant, Katie Thornton, born in 1865, it is not deemed probable that she arrived in the Cherokee Nation with three children in 1866.

The applicants, Millie, Emma, Joseph, Ethel, James Alvan and Eliza Thornton, Maggie Curls, Bessie Williams, Lettie Lynch and Herbert Curls and Godalia Riley are descendants of the applicant Katie Thornton and were born in 1865 and since, and have no rights as Cherokee Freedmen, except such as they may have acquired through her.

None of the names of the applicants are found on the 1880 authenticated Cherokee Roll.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

A.C. Tonner,

M.M.H. Acting Commissioner

W.

D.C. 21477-1904
I.T.D. 6736-1904
L R S

COPY

W.C.P.
J.P.
FHE

DEPARTMENT OF THE INTERIOR,
WASHINGTON, June 21, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

March 21, 1904, you transmitted the record in the consolidated case embracing the applications of Katie Thornton, et al., ( I.D.-878 et al), for enrollment as Cherokee freedmen, including your decision of March 5, 1904, rejecting said applications.

Reporting in the matter June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed herewith.

The Department concurs in said recommendation, and your decision, in so far as it rejects the applicants, is affirmed.

Respectfully,

(Signed) E.A. Hitchcock,
Secretary.

1 inclosure.

Cherokee Freedmen,
R-478.

Muskogee, Indian Territory, June 29, 1904.

Katie Thornton,

Hudson, Indian Territory.

Dear Madam:

You are hereby advised that the Commissioner's decision, dated March 8, 1904, rejecting, among others, your application for the enrollment of yourself and your two minor children, Willie and Emma Thornton, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen,
[illegible]

Muskogee, Indian Territory, June 29, 1904.

Edgar Smith,

Attorney for Katie Thornton, et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie, Millie, Emma, Joseph, Ethel, James Alvon and Eliza Thornton, Maggie and Herbert Curls, Bessie Williams, Lottie Lynch and Sedalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen,
D-378,380,381,
382 & 383.

Muskogee, Indian Territory, June 29, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie, Millie, Emma, Joseph, Ethel, James Alven, and Eliza Thornton; Maggie and Herbert Curls; Bessie Williams; Lottie Lynch; and Sedalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
R 410

Muskogee, Indian Territory, August 30, 1906

Starr and Patton,
Attorneys for Katie Thornton, et al.
Vinita, Indian Territory

Gentlemen:

This office is in receipt, on June 11, 1906, of a motion made by you for a rehearing in the Cherokee freedmen enrollment case of Katie Thornton, et al. Said motion will receive the proper consideration of this office and be transmitted to the Department for action thereon at the earliest practicable date, of which you will be promptly advised.

Respectfully,

L M B

Acting Commissioner

Muskogee, Indian Territory, February 13, 1907

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a motion filed June 11, 1906, by Starr & Patten, Vinita, Indian Territory, for a rehearing of the consolidated Cherokee freedman case of Katie Thornton et al. The reply of the Attorney for the Cherokee Nation to this motion, filed July 5, 1906, is also enclosed. July 21, 1906, there was filed by attorneys for applicants an amended motion for rehearing.

The decision of the Commission to the Five Civilized Tribes dated March 5, 1904, rejecting the applications for the enrollment of the applicants embraced in the consolidated Cherokee freedman case of Katie Thornton et al. was affirmed by the Department June 21, 1904 (I.T.D. 4736-1904).

Unquestionably the motion for a rehearing of this case is without merit.

Attached to the motion for rehearing is what purports

to be sworn statement by J. M. Johnston, who states that he was living in Anderson County, Kansas, in the year 1864; that he knew Henry Thornton; that Henry Thornton and his wife separated, and that his wife came to the Cherokee Nation, Indian Territory, in the fall of 1864." It is also supported by the affidavits of Leander, Joe , and Tobias Bean.

Attached to the amended motion for rehearing are affidavits by Betsy Whitmire, Eliza Whitmire, Tobias Bean and Arthur Bean, all of whom sign by mark, and the affidavit of said J. M. Johnston.

J. M. Johnston, whose postoffice address is Garnett, Kansas, has testified for Starr & Patton in several Cherokee freedmen cases, as have also Betsy Whitmire and Eliza Whitmire. The other parties to the affidavits in support of this motion have testified in practically every Cherokee freedman case tried before the Commissioner in the last eighteen months, in which Messrs. Starr & Patton have appeared as attorneys.

The statements contained in the affidavits are

general, and merely state that Katie Thornton returned to the Cherokee Nation and established a residence therein in 1866.

Katie Thornton swore that she returned to the Cherokee Nation after the war of the rebellion, with her husband, Henry Thornton. The Cherokee Nation introduced W. A. Johnson, of Garnett, Kansas, who swore that he became acquainted with Henry Thornton in 1866 or 1867, and that he continued to reside in Kansas until about 1870, and also William Ray of Garnett, Kansas, who swore that Henry Thornton and his wife left the state of Kansas , in company with his brother-in-law and sister, on the first day of March, 1871. It will be seen that the statement in the affidavit of J. M. Johnston to the effect that Henry Thornton and his wife separated, and that his wife came to the Cherokee Nation in 1866, is directly contradictory to the sworn statement of Katie Thornton herself.

There is nothing to show that the evidence now sought to be introduced is newly discovered, or that with due diligence the same could not have been secured when the case

Secretary 4.

was heard before the Commission; nor is there anything to show that the motion is not made for the purpose of delay. Following the rulings of the Department of September 26, 1906 (I.T.D. 18464-18068-1906), in the Cherokee freedmen case of Jennie Martin et al., and of March 24, 1906(I.T.D. 2758-1906, 6206-1903), in the Cherokee freedmen case of Ann Johnson et al., it is respectfully recommended that the motion be denied.

Respectfully,

Through the

Commissioner of Indian Affairs.

Encl. B-15

Commissioner

L M B

LRS

DEPARTMENT OF THE INTERIOR, JP Jr.
S.P.

I.T.D. 1557-1905. WASHINGTON.
9674-1905.

DIRECT.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

On February 16, 1905, the applicants in the Cherokee freedmen case of Katie Thorton, et al., filed a motion for review of departmental decision of August 2, 1905.

On August 5, 1905 (Land 61256), the Indian Office returned the record in said case for consideration in connection with the said motion.

The Department has considered the motion, together with the record in the case. It does not appear, in view of the former testimony of the applicants, that the evidence now sought to be introduced could materially affect the adverse decision in the case.

The motion is accordingly denied.

The papers in the case have been sent to the Indian Office with a carbon copy hereof.

Respectfully,

Thos. Ryan,

First Assistant Secretary

6 inc. to Ind. Of.

AFMc.

2-14-07.

DEPARTMENT OF THE INTERIOR,

LAND.
15621-1907.
16332- "

OFFICE OF INDIAN AFFAIRS,

WASHINGTON. February 27, 1907.

(COPY)

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of February 13, 1907, denying motion for review of Departmental decision of August 2, 1905, in Cherokee freedmen case of Katie Thornton, et al., I have the honor to transmit herewith a communication from Commissioner Bixby, dated February 13, 1907, enclosing motion filed June 11, 1906, by Starr & Patten, Vinita, I.T., for a rehearing of the consolidated Cherokee freedmen case of Katie Thornton, et al.

This motion is wholly without merit, as there is nothing to show that the evidence now sought to be introduced is in any way newly discovered or that with due diligence it could not have been secured when the case was heard before the Commission originally, nor is there any showing made that the motion was not for the purpose of delay. It is recommended that it be denied.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

MWB--SD.

W.H.M.
S.R.W.

DEPARTMENT OF THE INTERIOR,

D.C. 12667-1907.
I.T.D.5738-1907.
LRS.

WASHINGTON.

March 2, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

February 27, 1907 (Land 16332), the Indian Office transmitted your report of February 15, 1907, forwarding a motion for review in the Cherokee freedmen case of Katie Thornton, et al., and concurred in your recommendation that the motion be denied.

The Department also concurs in your recommendation, and the motion is accordingly denied.

A copy of Indian Office letter is enclosed for your information. All the other papers in the case have been returned for the files of the Indian Office, together with a carbon copy hereof.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

1 enclosure, and
7 enclosures to Ind. Of.,
with copy hereof.

~~A. P. Mc.~~
~~3-2-07.~~

Cherokee F
R 410.

COPY

Muskogee, Indian Territory, March 7, 1907.

Katie Thornton,

Hudson, Indian Territory.

Dear Madam:

You are hereby advised that the motion for a rehearing in your Cherokee freedman enrollment case was denied by the Secretary of the Interior February 13, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams B.

Commissioner.

Encl.HJ-61.
HJU

Cherokee F
R 410.

COPY

Muskogee, Indian Territory, March 7, 1907.

W. W. Hastings,

Attorney for the Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motion for a rehearing in the Cherokee freedmen enrollment case of Katie Thornton, et al., was denied by the Secretary of the Interior February 13, 1907.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED Tams Bixby

Commissioner.

Encl. HJ-82.
HJC

herokee F.R.410

Muskogee, Indian Territory, April 1, 1907.

Millie Thornton,

Hudson, Indian Territory.

Dear Madam:

You are hereby advised that the motion filed for a re-hearing by your attorneys, Starr & Patten, Vinita, Indian Territory, June 11, 1906, in the matter of the application for the enrollment of yourself and others as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

Respectfully,

RPI

Commissioner.

Cherokee N.B.
418 et al.

Muskogee, Indian Territory, April 1, 1907.

Starr & Patten,

Attorneys for Katie Thornton, et al.

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motion filed for a rehearing by you June 11, 1906, in the matter of the application for the enrollment of Katie Thornton, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Geo. D. Rodgers.

Enc 1-3

MYI

Commissioner.

Cherokee F.R. 410
et al.

Muskogee, Indian Territory, April 1, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motion for a rehearing filed June 11, 1906, by Starr & Patten, Attorneys, Vinita, Indian Territory, in the matter of the application for the enrollment of Katie Thornton, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Tams D. Bixby
Commissioner.

Enc I-2
RPI

Cher. Fr. R-411

Cher. Fr. R-411

See Cher. Fr. D-579, R-410-12-13

---oooOOOooo---

Commissioner.

(2Hand) I. B. Hooper,

Superscribed and delivered in the presence of

(2Hand) J. Mason, Jr.

Notary Public.

I, O. Mason, Jr., Notary Public duly commissioned and qualified to administer oaths, do certify that the foregoing deposition was taken before me at the time and place specified; that the witness was first duly sworn to testify the truth, the whole truth and nothing but the truth relative to the matters at issue between the parties hereto; that the testimony was reduced to typewriting by me or under my direction; that the deposition is a true and complete statement of the testimony given by the witness; that I am not attorney for nor employee of any of the parties hereto, nor interested in the event of this cause.

WITNESS my hand and official seal this 22nd day of August, 1907.

I. O. Mason, Jr.

Notary Public.

My commission expires on the 3rd day of June, 1907.

Deposition of Hon. Wm. Taft, Secretary of War, taken before I. O. Mason, Notary Public, at the Executive Mansion, Washington, D. C., on Thursday, August 22nd, 1907, at 10 o'clock A. M.

Present: Hon. Wm. Taft, Secretary of War.

Hon. Frank Pierce, Attorney for the Commission.

Hon. Peter Dunne, Attorney for the Defendant.

Mr. Pierce: Mr. Secretary, I have here a letter addressed to you by the Commission, dated August 20th, 1907, and a letter addressed to the Commission by you, dated August 21st, 1907, which I desire to have marked for identification.

(Letters marked Exhibits A and B.)

Mr. Pierce: Mr. Secretary, I will ask you if you have received a letter from the Commission dated August 20th, 1907, and if you have answered the same?

A. I have received a letter from the Commission dated August 20th, 1907, and have answered the same.

Q. Have you any objection to stating the contents of your letter?

A. I have no objection to stating the contents of my letter.

Q. Will you please do so?

A. I will state that I received a letter from the Commission dated August 20th, 1907, requesting me to appear before the Commission at the Executive Mansion, Washington, D. C., on Thursday, August 22nd, 1907, at 10 o'clock A. M., and to bring with me all letters, telegrams, documents, papers and other writings in my possession or under my control relating to the matters at issue between the parties hereto, and that I replied to the Commission's letter stating that I would not be able to comply with the request contained in the Commission's letter, but that I would be glad to appear before the Commission at the time and place mentioned in the Commission's letter and testify in the matter.

Q. Have you any objection to stating why you will not be able to comply with the request contained in the Commission's letter?

A. I have no objection to stating why I will not be able to comply with the request contained in the Commission's letter.

Q. Will you please do so?

A. I will state that I will not be able to comply with the request contained in the Commission's letter for the reason that I will not have in my possession or under my control any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto, and that I will be glad to appear before the Commission at the time and place mentioned in the Commission's letter and testify in the matter.

Q. Have you any objection to stating why you will not have in your possession or under your control any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto?

A. I have no objection to stating why I will not have in my possession or under my control any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto.

Q. Will you please do so?

A. I will state that I will not have in my possession or under my control any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto, for the reason that I will not have had any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto in my possession or under my control at any time since the date of the Commission's letter.

Q. Have you any objection to stating why you will not have had any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto in your possession or under your control at any time since the date of the Commission's letter?

A. I have no objection to stating why I will not have had any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto in my possession or under my control at any time since the date of the Commission's letter.

Q. Will you please do so?

A. I will state that I will not have had any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto in my possession or under my control at any time since the date of the Commission's letter, for the reason that I will not have had any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto in my possession or under my control at any time since the date of the Commission's letter.

Q. Have you any objection to stating why you will not have had any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto in your possession or under your control at any time since the date of the Commission's letter?

A. I have no objection to stating why I will not have had any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto in my possession or under my control at any time since the date of the Commission's letter.

Q. Will you please do so?

A. I will state that I will not have had any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto in my possession or under my control at any time since the date of the Commission's letter, for the reason that I will not have had any letters, telegrams, documents, papers or other writings relating to the matters at issue between the parties hereto in my possession or under my control at any time since the date of the Commission's letter.

DEPARTMENT
COMMISSION TO THE
FILED
AUG 22 1907

To be filed with case of Maggie Curls, C. F. D.#580.

DEPARTMENT OF THE INTERIOR/
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., JUNE 7, 1901.

In the matter of the application of Katie Thornton for the enrollment of herself and two children as Cherokee Freedmen; she being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Mellette & Smith, for Applicants;
W. W. Hastings, for Cherokee Nation.

Q What is your name? A Katie Thornton.
Q How old are you, Katie? A I just really don't know, but they guessed at it before and they thought I was 65 in the other court.
Q About five years ago? A Yes, sir.
Q That will make you about seventy now? A Yes, sir, I guess so.
Q What is your post office? A Hudson.
Q What district do you live in? A Coowescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they under age and unmarried? A They are unmarried. I have two to enroll.
Q Are they under age? A Yes, sir.
Q What are their names? A Maggie Curls.
Q Is she married? A Yes, sir.
Q Are these children all married? A Yes, sir, all married but two. The youngest one is Millie Thornton.
Q How old is Millie? A She is 19.
Q The name of the next child? A Emma Thornton.
Q How old is Emma? A 17.
Q Is your name on the roll of 1880? A No, sir.
Q Did you draw what is known as the strip money? A Yes, sir, I drawed strip money and Wallace money too.
Q ~~Mrs.~~ Are you married now? A No, sir, my husband is dead.
Q What was his name? A Henry Thornton.
Q Is he living? A No, sir.

The 1880 authenticated roll and the 1896 census roll examined and the names of the applicants not found thereon.
The Kern-Clifton Roll examined and the names of the applicants are found thereon as follows:
Page 141, No. 3509, Katie Thornton, Coowescoowee Dist.
Page 141, No. 3512, Millie Thrntnn, Coowescoowee Dist.
Page 141, No. 3513, Emma Thornton, Coowescoowee Dist.
The Wallace roll examined and the name of the applicant is found on page 195, No. 3549, Katie Thornton, no district.

Q Have you got any witnesses, Katie? A Yes, sir.
Q Who are they? A Harry Still, Jack Landrum, Frank Ross, and Lewis Whitmire.
Q Katie were you a slave? A Yes, sir.
Q To whom did you belong? A John Thornton.
Q Was he a Cherokee citizen? A Yes, sir, Cherokee citizen.
Q An Indian. A Yes, sir.
Q Were you taken out of the Nation during the war? A Yes, sir.
Q Where to? A We went to Fort Scott.
Q Fort Scott, Kansas? A Yes, sir.
Q Who did you go with? A We went out with the people that lived with Thornton, with Fannie Thornton.
Q Went out with Thornton's slaves? A Yes, sir.
Q When did you come back? A Come back in '66.

Q Did you say you come back in '66? A Yes, sir.
Q Where have you lived since that time? A I lived on Lightning Creek first.
Q Have you always lived in the Cherokee Nation since you come back?
A Yes, sir, never been no place else since I come back.
Q Where were y ur children, Millie and Emma born? A In the Nation.
Q Cherokee Nation? A Yes, sir.
Q Have you lived in the Cherokee Nation ever since they were born?
A Yes, sir, them two live with me.
Q Your husband's name was Henry Thornton? A Yes, sir.
Q How long has he been dead? A He has been dead, this May past, six years.
Q Have you married since? A No, sir, never married since.
Q Was he your first husband? A Yes, sir, he was my first husband.
Q He is the father of Millie and Emma? A Yes, sir.
Q Was he a Cherokee Freedman? A Yes, sir.
Q Who did he belong to? A He belonged to John Thornton.
Q Were you married to him before the war? A Yes, sir, way before the war.
Q Did he go with you when you went out? A We went out together.
Q Did you return together? A Yes, sir, both come back together.
W. W. Hastings: Did your husband join the army the time of the war? A Yes.
Q He was in the army until the war closed? A No, sir, he got hurt and he come home; he went out to chop some wood and he hurt his knee and he couldn't walk so they sent him home.
Q When did he come home? A He come home before the soldiers left Fort Scott.
Q About how long before the war closed? A They hadn't started out; they hadn't left Fort Scott.
Q And he remained there at Fort Scott afterwards? A No, sir, we moved afterwards to Carnett with my mother, and after he got crippled I went there for protection, for them to help me.
Q What was your mother's name? A Lydia Ross; she belonged to Lewis Ross.
Q Did you stay in Kansas until after the war closed? A No, I came back in '66.
Q Well the war was over? A Yes, it was over then.
Q What is your oldest child's name? A Maggie Curls.
Q How old is she? A She is somewhere about 36 years old, as near as I can remember.
Q Where was she born? A She was born in Kansas, Maggie was.
Q About how old was she when she come to this country?
A Somewhere near one year old.
Q What time in the year did you come here? A I come down here in the fall, in September, along in September.
Q Are you positive about that? A Yes, I am.
Q Who come with you? A I come along with Peter Meigs then after they had gone after their family.
Q They had been here? A Yes, sir, and come back.
Q Did your husband come with you? A Yes, sir, we all come together.
Q Who else come besides Peter Meigs? A We were the last ones that started. There were three families.
Q Name them? A Peter Meigs, Cooper Smith, David Hayes; there was a lot of them in ahead of us, and we didn't get together; they lived in different places.
Q Did you start from Carnett? A I did; the others didn't live there; we got together on the road.
Q Was David Meigs along? A Yes, sir, he was along; Uncle Pete and them had been here and went back after their families.
Q Are you certain that David Meigs' wife and family was along?
A Yes, sir.

Q Where did you come to down here? A We came to Big Creek, down there where they all lived, and stopped there and camped; we stayed there I believe one and a half days.
Q Then where did you go? A Nowhere; I live down to Lightning Creek.
Q Was Madden living there? A No, we made the place.
Q The place that Madden is living on now? A Yes, sir; that is the first place I stopped to locate.
Q With the exception of a day or two you came directly to Madden's place? A No, I went to Mose Whitmire's a few days. We stayed a day or two, and when I left there I came over to where we live.
Q Where you live now? A No, to where Madden lived.
Q How far does Madden live from Hayden? A I don't know; I guess about three-quarters of a mile.
Q What direction? A End of south.
Q Was there any house there then on the Maden place, the place that you made? A No, there wasn't no house until we built it.
Q Built it that fall? A Yes, sir.
Q Same fall you come? A Yes, sir, the same fall we come.
Q Who helped your husband to build it? A Lewis Right, Nels. Wroght, Aaron and Mose Whitmire and Ransom Woodall; about one dozen or fifteen men.
Q Did you know any Cherokees living in that country then?
A No, sir, never saw any then.
Q Where did you get anything to eat? A When we wanted anything, a man had to go into the states; they were gone sometimes several days. I think they went in the States somewhere to get it.
Q Was Aaron Whitmire--did he have a field then? A No, they didn't have time to have no field; he just come in then.
Q Did he have a house? A He had some houses up.
Q Did you see Harry Still down there then? A I didn't see him when I first come.
Q How long after you first come was it? A I don't know how long it was before I saw Harry, but I saw his mother.
Q About how long afterwards? A I don't know; I never kept any account of it; I saw Harry but I don't know when.
Q Where was Harry living? A He said he come from his mother.
Q Where did she live? A She lived up on the prairie, on the hill from Hayden.
Q About how far from Hayden? A I dogldn't tell; two miles or one--and a half miles.
Q Was she living in a house then? A She was living in a house there then.
Q Who was living with her? A This man Hayden.
Q About how far were they living from you? A I guess somwhere about two miles I guess.
Q In the same neighborhood? A All in the same neighborhood.
Q You knew her did you? A Yes, sir.
Q Did you know her before? A I knowed her before the war.
Q And you got acquainted with her directly after you come down there? A Yes, sir, all old acquaintances and we met each other.
Q Her name was Hayden then? A Not before the war; since the war it was.
Q Her husband was living with her then? A Yes, sir.
Q In the fall of '66? A Yes, sir.
Q You are positive about that? A Why of course I am.
Q They were living within two miles of you? A Yes, I guess it was, but I am not much of a judge to that.
Q Where was Mose Whitmire living then? A He lived right in front of me, not more than half a mile. He lived in front down the hill, and I lived on the hill; he lived in front of me.
Q Did he have a field then? A No, he didn't have no field.

Q Did he have any corn? A No, he didn't have no corn; he had a little there, I don't know where he got that.
Q You just made that place on the public domain? A Yes, sir, I made mine on the public domain.
Q Where did you live before the war? A I lived at John Thornton's.
Q In what part of the Nation was that? A It is a queer name, but I can call the name.
Q What town is near there now? A There was no town there.
Q I mean now where Thornton lived? A I haven't been back there since I left. I don't know; I will think of the place directly.
Q Was it Tahlequah, or Flint, Goingsnake? A It was Goingsnake we lived.
Q How far did you live from Lewis Whitmire? A I think it was about three miles. I think it was about that far. I know where they lived.
Q You and your husband come back down here together? A Yes, sir, both come together.
Q Did you come in a wagon? A Yes, sir.
Q Did you pass through any town from Fort Scott? A We didn't come from Fort Scott.
Q I mean Garnett? A We came through several little stations.
Q What stations? A I can't remember but one, and I don't remember whether I can remember that; I can't call the name; it has been so long, I got the name; we came through several stations; I can't think of them.
Q Do you think you came through Chetopa? A No, we didn't come through Chetopa.
Q Did you come through Coffeyville? A We came through Pompkin, where old Parker used to be; that is the way I came.
Q Do you know Henry Armstrong that lived by Coody's Bluff? A No, sir.
Q Do you know Cal. Coker? A No, sir, I don't know him either.
Q Was there any Delaware Indians living up there when you came? A No, sir, I never saw them.
Q Have you seen any since? A Since then I have seen Delaware Indians time and gain, and I see them every once in a while yet.
Q Did you have any witnesses before the Court before? A Yes, sir, I had just one.
Q Which one? A Old man Peter Meigs.

HARRY STILL, being sworn by Commissioner Needles and examined by Mr. Smith, Applicant's Attorney, testified as follows:
Q State your name. A Harry Still.
Q Where do you live? A Hayden.
Q How long have you lived in the Cherokee Nation? A All my life, 54 years.
Q Do you know this applicant, Mattie Thornton? A Yes, sir.
Q How long have you known her? A I knowed her ever since I was a little fellow.
Q Was she born a slave? A Yes, sir.
Q Do you know who she belonged to before the war? A TO Thornton.
Q What Thornton was that? A We called him Doc. Thornton.
Q Was he a citizen of the Cherokee Nation? A Yes, sir. I don't know whether she belonged to him or his wife. I know she belonged in the Thornton family.
Q Do you know what Thornton's wife's name was before she married? A Frankie Thornton they called her.
Q Were they citizens of the Cherokee Nation? A Yes, sir.
Q Where did they live before the war? A I think they lived in Goingsnake.
Q Did you see this woman, Mattie Thornton, in the Cherokee Nation after the war? A Yes, sir.
Q When did you first see her? A In the fall of '66.

Q Where? A On Lightning Creek she settled a place known now as Bill Madden place. Bill Madden lives on her old place.
Q Was there any other members of her family with her, or was she by herself? A She had Henry, her husband; Maggie, she had two or three children and a step-son. I forget his name; he is dead. She had several children.
Q What is her husband's name? A Henryp he was a crippled man.
Q Do you know where this woman, Katie Thornton, has been living since that time? A Yes, sir.
Q Where? A On Big Creek.
Q Do you know whether she has been living there continuously or not? A Yes, sir.
Q Has she? A Yes, sir, when she left Lightning Creek she went to Big Creek and stopped, and has been there ever since.
Q Has she any grown children who are married? A Yes, sir.
Q Who are they? A Maggie.
Q Who is Maggie married to? A Julius Curle. That is her oldest girl. She has one that married Jesse Riley. I don't know her name, and she has a boy named Joe. She has several children.
Q Where does Jesse Riley's wife live? A Right across that hill there / (Indicating.)
Q How far from Chelsea? A I expect it is three miles or four.
Q Who does she live with? A Her husband.
Q What is his name? A Jesse Riley.
Q Where does Maggie Curle live? A She lives right at the foot of that hill there? (Indicating.)
Q How far from Chelsea? A About two and a half or three miles.
Q Who does she live with? A Her husband.
Q Do you know where Joe Thornton lives? A Yes, sir.
Q Is he married? A Yes, sir.
Q Where does he live? A On Big Creek.
Q How long has he been there? A Ever since his mother left for Big Creek.
Q How long did you say that Joe Thornton had been living in the Cherokee Nation? A Ever since his father and mother moved to Lightning Creek. He never was out except across the line and then back home.
Q When did his mother move to Lightning Creek? A In the fall of '96; sometime in December, I think.
Q Do you know when Katie's daughter, who is now married to Jesse Riley, do you know how long she has been married? A No, sir, I don't know how long Maggie has been married. I don't know anything about the marriages. I know she is married. I know she lives in Vinita a while. I know she is married to Julius Curle, but don't know anything about her marriage, there she married.

C. W. Hastings: How old are you? A About 34 years old.

Q You were about 18 years old when the war closed? A Yes, I reckon so. I might have been; I am about 34 years old now.
Q You are certain you saw this woman? A Yes, sir.
Q You are positive about that? A Yes, I am positive. I have circumstances that make it positive.
Q You were living with your mother? A Yes, sir.
Q On a place that you had made? A Yes, sir.
Q You weren't living with Aaron Wright? A No, sir.
Q Mr. Hayden was living with your mother at that time? A No, sir.
Q Wasn't Mr. Hayden and his wife, who was your mother, living about two miles from this woman? A Yes, sir.
Q Was Mrs. Hayden there? A No, sir, Mr. Hayden wasn't there.
Q How many children did she have when you first saw her there?
A She had three or four children.
Q Name them? A Maggie, and Jesse's wife, I don't know her name, and Joe and a step-boy, I forget his name.

Q You remember of seeing those four? A Yes, sir, she had those four.
Q And they were there in the fall of '66? A Yes, sir.
Q Did you testify for her five years ago that she came back in the fall of '66? A No, sir.
Q You didn't say anything then about seeing her? A Yes, sir, I said something about seeing her, and Albert Morris said she come to Big Creek in '66, and you remember it.
Q You didn't go on the stand them? A No, sir.
Q You didn't witness for her? A No, sir.
Q You were living over there two miles from her? A Yes, sir.
Q And you saw rebuttal testimony go in against her did you?
A No, sir, I didn't see any go in against her.
Q You didn't hear it? A No, sir.
Q I thought you said you was present when Albert Morris testified?
A I said I was talking down stairs with Albert Morris and you were there.
Q You didn't come up and witness for her? A No, sir.
Q She made the Maddox place, did she? A Yes, sir.

Mr. Smith: How long was it before Mr. Hayden come down? A It was perhaps about six months before Mr. Hayden ever come to the Cherokee Nation, and he didn't stay no time then, he went back.

Q He himself was not there at the time you were speaking about?
A No, sir.
Q Where was Mrs. Hayden? A She was there on Lightning Creek, my mother was.
Q Is Mrs. Hayden your mother? A Yes, sir.
Q How old were those children, Jesse Riley's wife and Maggie, who is now Maggie Curls, in 1866? A They were tolerably good size girls.
Q About how old? A I don't know how old they were. Maggie was a good size girl; I remember her and I remember the step-boy; the others I don't remember much about them, but I knew Henry then and have knowed them all my life, but I never paid any attention to the children.

W. W. Hastings: How old do you think Maggie was when you first saw her? A I never paid no attention, but I know she was with her mother.

Commissioner: you say Hayden wasn't there? A No, sir, he wasn't there.
Q Would he come backwards and forwards occasionally? A Yes, sir, he would come backward and forward occasionally.

W. W. Hastings: About how often did he come back? A I guess he come back two or three times before he come back to stay.
Q You testified that you bought that place from Sam Brad?
A Yes, sir.
Q When did you buy it? A '72 or '3.
Q Did Hayden ever live down there before that time? A No, sir, my mother was there.
Q Mrs. Hayden lived up with Hayden in Kansas? A No, sir, she never did.
Q She lived right down there, did she? A Yes, sir, right where I brought her.
Q On the first place she made? A Yes, sir.
Q She lived there for seven years? A Yes, sir.

FRANK ROSS, being sworn by Commissioner Needles and examined by Mr. Smith, Attorney for Applicant, testified as follows:

Q State your name? A Frank Ross.
Q Where do you live? A I live on Lightning Creek.
Q What is your post office? A Hayden.

Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant here, Katie Thornton? A Yes, sir.
Q How long have you known her? A All my life.
Commissioner: Well how old are you? A 55.
Mr. Smith: Do you know whether she was a slave or not?
A Yes, sir, I do.
Q Was she? A Yes, sir.
Q Whose slave?w A She belonged to Lewis Ross' daughter, Minta Vann.
Q Was she an Indian? A Yes, sir.
Q Cherokee Indian? A Yes.
Q Where did she live before the war? A She lived down close to Tahlequah.
Q Do you know whether Katie Thornton here was ever out of the Cherokee Nation, or what became of her during the war? A She went to Kansas during the war.
Q When did you first see her back in the Cherokee Nation after the war? A I saw her back in '66 on Lightning Creek; in the winter of '66 on the place where Bill Madden is living at now she was living.
Q Do you know where she has been living since that time? A She is living on Big Creek. After she moved from there, she moved to Big Creek.
Q Has she lived in the Cherokee Nation continuously since that time?
A As far as I know, she has; I never heard of her being our.
Q Do you know her children? A I know them when I see them. I am not acquainted with them. I am acquainted with one of them, the oldest girl, Maggie.
Q Is she married or single? A She is married.
Q To whom is she married? A Julius Curls.
Q Do you know any other of the older children over 21? A No, sir, I am not well acquainted with them. I know them when I see them; she had a boy by the name of Billy, but he is dead.
Q Any other boys that you know? A No, sir, not that I know of.
Q Are you acquqintd with any other of her girls? A Jesse Riley Riley has one of her girls, but I don't remember her name.
W. W. Hastings: Where were you living after the war? A Living on Price Creek.
Q Below here? A Yes, sir, below here.
Q This woman wasliving above you? A She was living on Lightning Creek; that is above me and way above me.
Q How far? A It must be 22 or three miles.
Q Did you testify for her five years ago? A No.
Q You weren't a witness for her then? A No, I wasn't; I knowed her alright, but I wasn't a witness for her.
Q Did you see her husband in '66? A Henry, yes, sir, I saw him.
Q Where were they living then? A Where Bill Madden is living now.
Q What time in '66? A Along in the winter a little before Christmas.
Q Did they have a house up there? A They were fixing to build a house; they didn't have one then; I didn't see any; they were fixing to build one.
Q Well, were they in tents? A Yes, they were in a tent.
Q On the Madden place? A Right where the Madden place is now. Maddens are living in that house now.
Q Did you see any children with them? A I seen a boy, Billy, and a little girl.
Q Is that all? A That is all I noticed; I don't remember of any more.
Q How long did you stay there at that time? A Four or five days.
Q With them? A No, I was there in the neighborhood with Nelson and Mose.
Q Do you undertake to say you remember of seeing people 35 years ago and remember the exact dates? A Yes, sir.
Q Are you willing to swear to it? A Yes, sir.

JACK LANDRUM, being sworn by Commissioner Needles, testified:

W. W. Hastings: Comes now the representative of the Cherokee Nation and protests against the introduction of this witness for the reason that he was called and sworn and put under the rule which has been explained to all these colored people for the last week or ten days, if not longer, and this witness got up from the second bench from behind the rope in the crowd and was present during the taking of the testimony of the preceding witness, and was pretty near enough to hear the inquiries and answers made.

Mr. Smith: If the Court please, I don't know who was called and sworn.

W. W. Hastings: And the bailiff being asked by the Commissioner where he was, and he answered second seat.

Commissioner: Well you are under oath. Did you hear any part of the testimony that was given here in this case? A No, sir, I didn't.

Q Where were you during the examination of these witnesses?
A I was way back yonder, and I can prove it.
Q Weren't you on the second bench here? A No, sir, I can prove that I wasn't.
Q Who can you prove it by? A By all the folks that are sitting back there.
Q Are you hard of hearing anyhow? A I can't hear very good.

Mr. Smith: Where were you when sworn and put under the rule where did you go? A I went back there.

Q I don't know where you went to. Who was sworn with you?
A Harry Still and Frank Rose.
Q Well where did you go when you were told to go out of hearing of the witnesses? A I went out of hearing of witnesses, but of course I was inside of the shade.
Q Did you stop at the place where you got up from when you were called? A No, sir, I went way back yonder by the side of a woman and she can tell you I didn't hear anything.
Q Where were you standing or sitting, or whatever you were doing when your name was called here to come and testify? A I was way back there. I can tell you where I was sitting. I can tell you.
Q I would like to know? A I can put you right to the place. I know the rules; I was sitting out of hearing and never heard a thing that was said here; that is right; of course, I wanted to sit in the shade.
Q Who was you sitting with, do you know? A I was sitting by the side of Buckner.
Q What Buckner? A George Buckner.

GEORGE BUCKNER, being sworn by Commissioner Needles, testified as follows:

Q What is your name? A George Buckner.
Q Do you know the witness here, Jack Landrum? A Yes, sir.
Q Where was he sitting during the examination of this case?
A Just at the very latter part of it he was sitting the second one from me. I was sitting near the north end of the second seat.
Q Did you hear any of the examination or what the witnesses said?
A No, sir, I couldn't hear a thing.
Q Do you think he could hear? A No, sir, I don't think he could.
Q He was only there at the latter part of the examination?
A Yes, sir.
Q He had been in the back part before? A Yes, sir.

W. W. Hastings: He was sitting on the second seat behind the rope? A Yes, sir.

Mr. Smith of George Buckner: On what side of the tent?
A On the north side.
Q On what side of the tent is this where you are now standing?
A The south side.
Q He was on the opposite side of this tent where this testimony was being taken? A Yes, sir.
Commissioner: Mr. Witness, how far do you think it is he was?
A If I can step it, I think I will know.
Q Well step it? A About 31 feet.
W. W. Hastings: Did you step from where the witness was sitting or did you make angles? A I went around to the bench.

W. W. Hastings: The representatives of the Cherokee Nation ordinarily could not fell called upon to be technical, but they remember that in this special case they asked that these witnesses be put under the rule; this witness as he testified clearly understood that he should be put under the rule and he came back and the Commission itself ought to take notice of the fact, and as testified by the bailiff, within easy hearing of any witness upon this stand, and this testimony ought not to be allowed to be introduced.

Commissioner: Mr. Buckner, you say you heard none of this testimony? A No, sir.
Q And you were sitting aside of this man? A Yes, sir.

Commissioner: Go on with the witness:

Mr. Smith: State your name.. A John Landrum.
Q What is your post office? A Hayden.
Q Where do you live? A I live on Lightning Creek, north of Hayden.
Q About how far north of Hayden? A About two miles.
Q Do you know this applicant, Katie Thornton? A Yes, sir.
Q How long have you known her? A About thirty years or more.
Q You didn't know her before the war? A No, sir, I didn't.
Q How far does she live from you? A She lived when she come from the north I reckon to my place--she located thereabout--close by me; I live east of her and she lives west of me.
Q Do you know who came there with her? A Yes, sir.
Q Who? A Thornton, her husband.
Q What was his name? A Henry.
Q What year was that? A That was in '66; in the fall, with others the latter part of winter kind of. It was in the winter.
W. W. Hastings: Where were you living at that time?
A I was living on Salt Creek where I am living now.
Q The same place? A Yes, sir, same place.
Q When did you move there? A In the fall of '66.
Q Had you build a house? A Yes, sir.
Q How far did she locate from you? A About a mile I guess.
Q You didn't come up and testify for her five years ago?
A No, sir, I didn't; this is the first time.
Q Were you ever tried for anything in the Courts? A No, sir.
Q You never was up before any Court? A No, not since they killed my son. When they killed my son I had the case tried down here on Dog Creek.
Q They never tried you for anything? A No, sir, never was tried for anything.
Q How far did you live from this woman? A About one mile east of her.
Q How many children did she have when she came? A Two.
Q What were their names? A I can't remember the boy's name, and Maggie.
Q Was the mother one was child? A Yes, sir, it was the boy.

Q It was a baby when she come there A Yes, sir, I know it, and I will swear and die on it.
Q Those were the only two children she had when she come there?
A Yes, sir.
Q And her husband? A Yes, sir.
Q You are positive? A Yes, sir, I am postiive, and I will die with it.
Q Are you a preacher? A No, sir.
Q How old are you? A I am 69 years old.
Q Do you know what year the war commenced? A Why, no, sir, I can't tell you.
Q Do you know what year the war closed? A No, sir, I don't know anything about that.
Q Do you know any year? A I know one year from another.
Q You know '66, don't you? A Yes, any of us ought to know that.
Q Di you ever hear of any other year besides that? A I have heard of lots of them.
Q What other year? A August and sepbember, July.
Q You heard of that year, have you? A Yes, sir.
Q Are those the only yeabs you heard of except '66? A No, sir, I heard of lot of them.
Q What other year have you heard of besides '66? A There is August, September, and there is May, April.
Q Those are years are they? A No, they are months.
Q What year have you ever heard of besides '66K A Now Mr. Hastings you ought not to ask me anything like that. I am not posted on anything of that kind.
Q Did these people come in a wagon? A Yes, sir.
Q They made a house down there, did they? A Yes, sir, they did.
Q Did you help build that house? A I helped to haul the logs.
Q And you didn't come and tell it for them five years ago?
A No, sir, I didn't.
Q Do you know when any ofne of her children were born after that?
A No, sir.
Q You don't know any year since then? A No, sir, I couldn't tell you anything like that.
Q Have you got a child by the name of George? A Yes, sir.
Q How old is George? A George is 19.
Q You know what year he was born in? A No, sir, I couldn't tell you.
Q What is your next oldest child's name, next to George?
A Nancy.
Q Do you know what yeat she waw born in? A No, I couldn't tell you.
Q Do you know what year you was married in? A No, sir, don't ask me anything like that. I couldn't tell you anything like that because I can't. I couldn't tell the date.
Commissioner: You were a slave were you? A Yes, sir.
Q Did you ever go to school? A No, sir, I never did in my life.

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LEWIS WHITMIRE, being sworn by Commissioner Needles, and examined by Mr. Smith, Attorney for applicant, testified as follows:

Q State your name? A Lewis Whitmire.
Q How old are you? A 62 years old.
Q Where do you live? A On Lightning Creek.
Q What is your post office? A Hayden.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life; never was out of the Cherokee Nation.
Q Are you on the roll of 1880? A Yes, sir.
Q Are you a Cherokee citizen? A Yes, sir.
Q Do you know this applicant, Katie Thornton? AA Yes, sir, IKnow her

Q How long have you known her? A Why I have known her ever since she was a young woman, in slavery days.
Q To whom did she belong? Was she a slave? A To Dr. Thornton; she was a slave under Dr. Thornton.
Q Who was Dr. Thornton's wife? A She was a Alberty; she was John Alberty's daughter.
Q With whom, if you know, was this woman, Katie, living at the time the war commenced? A She was living with Dr. Thornton and his wife when the war commenced.
Q When did you first see this applicant, Katie Thornton, after the war? A I saw her up here in Lighting Creek.
Q Well where was that, in the Cherokee Nation or Kansas?
A It was in the Cherokee nation.
Q When was it, what year? A It was in the fall of '66.
Q Do you know where she lives now? A Well, yes, sir; I know where she lives, she lives on Big Creek now.
Q How far from you? A It must be 10 miles, I guess, and may be more..
Q Where was she, at what point when you first saw her? A She was living on the place where Bill Madden is living now; her husband took a claim there.
Q How long did she live at that point, or in that immediate neighborhood? A I don't remember how long he lived there before he sold out there and went away.
Q Do you know whether she had any children or not in '66? A I think she had three children as near as I can recollect at that time.
Q Well do you know where they are now? A I don't know where the oldest is. No, sir, I don't.
Q Were these children boys or girls? A I do know the oldest child was a boy.and he died at Tahlequah after she lived up there. I know about that because I was there a week when they buried him.
Q Do you know anything about the girls? A I don't know about the girls; they moved from there and went to Big Creek and lived there.
Q Do you know whether they were ever married or not? A No, sir, I don't.

W. W. Hastings: How much of a place did they make there, Lewis?
A They made a small place.
Q About how many acres? A I guess it must have been five or six acres they broke out.
Q How long did they live there? A Something over one year before he sold out.
Q Who did he sell to? A I think Merry still bought the claim from him.
Q And they didn't sell to Madden then? A No, I think Merry still sold to Madden.
Q '66 has been a long time ago? A Yes, it has been a long time ago
Q Are you willing to come to the stand and testify for people when they come in and out of the country 35 years ago? Are you willing?
A If I remember and know it, of course I am willing.
Q Did you testify for this woman five years ago, were you her witness five years ago? A I expect I was.
Q Do you know? A I don't know for certain, but I think I was.
Q Think your memory was better then than? A Why I remember that I witnessed for her once before this.
Q That was before the Starr-Clifton Court? A I think it was either the Starr-Clifton Court or the Wallace Court one.
Q You are not positive now, are you? A Why I am positive that I witnessed at one of those courts.
Q You are not positive which Court? A No, sir.
Q Well now, how many children do you think she had when you first saw her there? A Why I don't remember well how many children she had because I didn't go around them people much, but I knew the boy and the oldest girl was big enough to go to our subscription school.

Q You mean her oldest girl was old enough to go to your subscription school? A Her oldest boy and girl.
Q That was the first year after she come down there? A It was the first year and may be the second year, if I ain't mistaken.
Q How long did she live down there? A I told you how long she lived there as well as I recollect.
Q About how long then? A About two year.
Q That is your best judgment is it, Lewis? A Yes, sir.
Q And she had a boy and a girl that went to your school? A She had a boy and a girl to go to school, and they were close neighbors to the school there where they were camping.
Q Do you know what the boy's name was? A I most forgot that boy's name; he has been dead so long. I think thought his name was William
Q Who taught that school? A I don't remember what person taught it; we had a subscription school though.
Q Where was the school located? A It was located right where we have a school house now.
Q What is known as the Hayden school house where we took the census five years ago? A Yes, sir.
Q The same place? A Yes, sir, only it wasn't the same house.
Q It is a box house now? A Yes, sir.
Q That was a log house then? A Yes, sir.
Q You don't remember who taught it? A Not, sir, we had so many teachers there, until we got a teacher furnished from the Nation.
Q How is your recollection about dates, is it good? A No, sir, I don't know nothing about dates, less I go out and make a trade with some men and happen to give him an offer for it, and he will date it, and I bring it home, and I know I made a certain sale at a certain date. I don't date my business; I have no education.
Q Do you know years? A I know years: I know when Christmaw comes I know one year is gone.
Q That is all you know about it, is it? A Yes.

Case continued by Stenographer J. O. Rosson.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

(Signed) E. C. Rothenberger.

Subscribed and sworn to before me this 10th day of July, 1901.

(Signed) T. B. Needles,
Commissioner.

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June 7th, 1901.

Continuation of application of Katie Thornton for the enrollment of herself and two children as Cherokee Freedmen:
Former portion taken by stenographer E. C. Rothenberger.

KATIE THORNTON, the applicant, re-called, further testified:
By W. W. Hastings, Cherokee Representative:

Q What was your next child born after Maggie? A Georgie.
Q Was it a girl or boy? A It is a boy and he is dead.
Q He is dead? A Yes, sir.
Q How much older was Maggie than George? A He is about two years old.
Q What was the next child of Georgie? A The next was Ruth.
Q How much older was Ruth than Georgie? A He was very near two years.

Q Did you ever have a child by the name of William? A Yes, sir, the oldest was named William.
Q Was he older than Emmeline? A Yes, sir.
Q How long did you live on the Baldwin place? A I could not tell you, I lived there some very near four years; somewhere between four and five I could not tell you, I lived there a good little while
Q Where did William die? A He died down on Tallequah.

COL'R WEBSTER: Katie Thornton applies for the enrollment of herself and her two children, Willie and Minnie. They cannot be identified upon the authenticated roll of 1880 or the census roll of 1896. She is duly identified upon the Kern-Clifton roll and Wallace roll. Her two children are identified upon the Kern-Clifton roll. They make satisfactory proof as to residence and will now be listed for enrollment as Cherokee Freedmen as a doubtful card, and she will be duly notified by mail of the decision of the Commission when arrived at.

J. O. Rosson, being first duly sworn, states that he stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 15th day of June, 1901.
(Signed) T. B. Needles,
Commissioner.

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J. O. Rosson, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript of the testimony and proceedings in the above case.

J. O. Rosson

Subscribed and sworn to before me this 31st of August, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., JUNE 7th, 1901.

In the matter of the application of Maggie Curls for the enrollment of herself as a Cherokee Freedman; said Curls being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Maggie Curls.
Q How old are you? A 36.
Q What is your post office? A Chelsea.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q What district do you live in? A Coowescoowee District.
Q Who do you want to enroll besides yourself? A I have got one child.
Q Yourself and one child? A Yes, sir, my child is over age.
Q Got no children under age? A No, sir.
Q Are you married? A Yes, sir.
Q What is your husband's name? A Julius Curls.
Q Is he living? A Yes, sir.
Q Is he a citizen? A Yes, sir.
Q Has he been enrolled? A Yes, sir.
Q What is your father's name? A Henry ~~Xxxxxxxx~~Thornton.
Q Is he living? A No, sir.
Q What is your mother's name? A Katie Thornton.
Q Is she living? A Yes, sir.
Q Where were you born? A I was born in Kansas.
Q Born in the State of Kansas? A Yes, sir.
Q How long have you lived in the Cherokee Nation? A All the time I guess, when I knowed myself I was here.
Q The first place you recollect was the Cherokee Nation?
A Yes, sir.
Q Been living here ever since? A Yes, sir.

By Mr. Smith, of firm of Mellette & Smith, Attorney for Applicant

Q How old are you? A 36.

The 1880 Authenticated roll of Freedmen of the Cherokee Nation examined and applicant's name not found thereon.

The Kern-Clifton roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 141, #3515, Maggie Kirls, Coowescoowee District.

The Wallace Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 142, #2967, Maggie Thornton, Coowescoowee district.

BY COM'R NEEDLES:

Q How long have you been married to Julius Curls? A Nine years.
Q Is the Katie Thornton who was enrolled this morning your mother?
A Yes, sir.

COM'R NEEDLES:--Maggie Curls applies for the enrollment of herself. Upon examination of the Authenticated roll of 1880 and census roll of 1896 her name cannot be found thereon. She is duly identified upon the Kern-Clifton and Wallace rolls, upon the Kern-Clifton roll as Maggie Kirls and upon the Wallace Roll is Maggie Thornton her maiden name, according to the page and number of the rolls as indicated in the testimony. She makes satisfactory proof as to residence and in this connection reference is made to the application of her mother, Katie Thornton, who was listed for enrollment upon Doubtful card No. 578, and the testimony

Eagle World--8.

In said case will be made part of the record in the case at bar and a copy thereof will be filed with the testimony and being taken. That will be ready [illegible] of a Thereafter [illegible] a decision upon the final termination of the Commission, will be made known by [illegible] office address.

---oOo---

T. G. Dixon, being first duly sworn, states that he is the reporter to the Commission by whom the Civilized Tribes, he correctly recorded the testimony and proceedings in the case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 11th day of June, 1906.

Commissioner.

File with case of Maggie Curls, C.F.-D.#680.

Supl. C.F.-D.#678.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 26th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of KATIE THORNTON, ET AL., as Cherokee Freedmen, introduced on part of the Cherokee Nation:

Appearances:
Mellette & Smith, Attorneys for Applicants;
Mr. Hastings, of Counsel for Cherokee Nation.

W. A. JOHNSON, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation.

MR. HASTINGS: What is your name? A W. A. Johnson.
Q What is your age, Mr. Johnson? A 71 years.
Q What is your post office? A Garnett, Kansas.
Q How long has that been your post office? A Since '58.
Q Were you acquainted with a colored man by the name of Henry Thornton? A Yes, sir, I was.
Q Did you know his wife? A I knew he had a wife and knew her, but I don't know her first name.
Q I will ask you what was Henry Thornton's physical condition?
A He was a cripple, he walked with one crutch.
Q What was his occupation? A He was a shoemaker.
Q How long did you know him there in Garnett after the war?
A Five or six years.
Q About when did you first learn to know him? A I am not certain when I first knew him, it was '66 or '67, somewhere along there is when he first came there.
Q Do you remember about the time that the colored people were allowed to vote in Kansas? A Yes, sir.
Q About when was that? A I think it was in '70.
Q Do you know whether or not Henry Thornton was there at that time?
A He was there during the time we were holding an election to amend our Constitution with reference to the question of suffrage.
Q When was that? A That was in '68, and I think he remained there about two years after that.
Q Did you know anything about his family? A No, I did not, in particular, about them.
Q I believe you say he was a cripple? A Yes, sir.
Q Walked on a crutch? A Used a crutch in getting around.

MR. SMITH: Mr. Johnson, it was either in '66 or '67 that you first knew him? A Somewhere along there I would not be positive.
Q Might have been '68? A I think I knew him a li ttle earlier than '68.
Q But you can't be positive about that? A No, but I am positive about my knowledge of him in '68.
Q But back of that you are not positive? A Not when I fi rst knew him, he worked in the shoeshop there with Mr. Setters.
Q You don't know anything about HIS family? A I know he had a family.
Q How do you know that? A I have seen his family.
Q Upon how many occasions did you see him in '66, except the one you mentioned in your testimony in chief? A Why I evidently saw him every day.
Q You think then you saw him every day during the year 1868?
A Every day that I was around town.
Q Well, you think he was around there every day you were?
A Why, I think so.

Taking of testimony continued by stenographer Chas. Ten Cate.

---oooOOOooo---

I, C. Wesson, being first duly sworn, attest that as stenographer by the Commission to the Los Angeles Grand Jury correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of the stenographic notes thereof.

Subscribed and sworn to before me this _____ day, _____.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

NOV 14 1901

ACTING CHAIRMAN

KATIE THORNTON ET AL., C. P. D. 378. -2-

( Continued from stenographer John Q. Rosson, at Vinita, I.T. Oct. 26, 1902 )

WILLIAM RAY being first duly sworn by Com'r T. B. Needles, testified as follows for the Cherokee Nation.

( By W. W. Hastings )

Q What is your name? A William Ray.
Q What is your age? A 63 past.
Q What is your post office address? A Garnett, Kansas.
Q How long have you lived in Garnett, Kansas? A Ever since '67 or '8.
Q I will ask you if you know a colored man there by the name of Henry Thornton? A Yes sir.
Q In Garnett Kansas? A Yes sir.
Q Did you know his wife, Katie? A Yes sir.
Q Did he have any family then? A Yes sir.
Q Do you remember any of the names of the members of his family, the children? A I dont recollect them at present, I dont know as I can call them.
Q What did Henry Thornton do? A He worked in a shoe shop.
Q Do you remember whose shoe shop it was he worked in? A Barney Setters if I am not mistaken.
Q Do you know when Henry Thornton and his wife Katie left there? A I know when they left, it was in '71.
Q What day in '71? A The first day of March, if I am not mistaken and I know I am not.
Q You know you are not? A Yes sir.
Q Who left with them? A My Brother in law and sister.
Q Where did they go to? A They said they was coming to the Cherokee Nation.
Q Had you seen Henry Thornton, the husband of Katie, frequently while they were living there at Garnett, Kansas? A Yes sir.
Q How frequently did you see him? A Well, at that time I was in town doing work around there and I saw him passing the shop very frequently.
Q Did you ever miss him for any length of time until he left there? A No sir.
Q How long was it after you came there before you became acquainted with him? A I can't just tell exactly what time, somewhere in about 3 or 4 months, 5 or 6 anyway.
Q Short time after you come there? A Yes sir

( By Smith )

Q What time did you come there in '68? A In June.
Q How long then was it before he became acquainted with this man? A I cant say the date, 3, 4 or 5 months after.
Q Might have been sooner than that? A Might have been sooner and it might have been longer.
Q Might have been longer than that? A Yes sir.
Q You had no acquaintance with him before that time? A No sir.
Q Where did you ever see this man's wife——first? A That is something I dont know as I can speak where I first saw her; they lived on 7th Street when I first knew them, as to the time and date I cant say.
Q 7th street in Garnett, Kansas? A Yes sir.
Q How large was Garnett then? A Oh a small place.
Q How many stores? A 3 or 4.
Q Do you mean to say that they had the streets numbered then? A I think west and east they had numbered them——seems as if commences at first Avenue and runs to 7th.
Q Do you know when they first commenced to number them? A No sir
Q You dont know if it was 7th street then or not? A It was on what they calls 7th street now.
Q You dont know where these people lived before you met them? A No sir, how could I?
Q You dont know if they were there all the time from the time you met them until they left or not? A No sir I went there that, not all the time I went.
Q You know they left one time the times or three? A Yes sir

Q What makes you say it was the first of March? A Because I can prove it was the first of March.
Q How can you prove it? A I can prove it by identification; I dont know if the Colonel can recollect the date or not; if you want me to tell how I know it I will tell you.
Q I dont want to know how you can find it out at some other time,but how you know it now? A On or about the two or three days before the first of March,John Tyler, my brother in law lived in the same block I did, Henry Thornton lived in the same block I did, and they both sold out on that day and fixed up their papers in Garnett and I can prove what I say; they sold to a man that lived in the same block, and I know I bid them good bye; my father started down here with them on the first day of March.
Q Have you examined the records since that time to find out when it was? A I dont know as I have, I looked up some back taxes once or twice and I found out it was a fact; I sometimes buy in property for taxes.
Q You just remember anyhow that it was the first of March? A I know it is a fact,Mr. Smith.

( By Hastings )

Q From the time you first knew him until he left you never missed him did you? A No sir I saw him every once in a while.
Q He owned property there did he? A He did.
Q And it was about that time that he sold it? A Yes sir.

HARRY STILL being first duly sworn by Com'r T. B. Needles, ~~t stified as follows on the part of~~ is recalled by the Cherokee Nation for further cross-examination:

( By Mr. Hastings )

Q What was Katie Thornton's husband's name? A Henry.
Q What was Henry's occupation? A Farmer.
Q Was he a shoemaker? A Not as I know of.
Q Was he a cripple? A Yes sir.
Q Walked on a crutch? A Yes sir.
Q You never knew him in Garnett,Kansas? A No sir.
Q He was a cripple? A Yes sir.

= = = = = = = = =

This will be filed in the original application in Cherokee Freedmen Doubtful cases, D-578; D-579; D-580;D-581;D-582 and D-585.

*******

Chas. von Weise, being first duly sworn states hat as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this th 28th of October, 1901.

T. B. Needles
Com'r



Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Maggie Carles, D 880;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicants be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attornays, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no cass reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

---

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(SEAL) (Signed) P. G. Reuter,
Notary Public.

---

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E C Bagwell

Subscribed and sworn to before me this July 29, 1902.

P G Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Katie Thornton, et al. as Cherokee Freedmen, consolidating the applications of

| | | | |
|---|---|---|---|
| Katie Thornton, et al.,..... | Cherokee | Freedmen | D 376 |
| Maggie Gurle,..... | " | " | D 380 |
| Joseph Thornton, et al.,..... | " | " | D 381 |
| Eliza Thornton, et al.,..... | " | " | D 382 |
| Lottie Lynch, et al.,..... | " | " | D 385 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission:— by Katie Thornton for herself and her minor children, Willie and Emma Thornton; by Maggie Gurle for herself; by Joseph Thornton for himself and his minor child, Ethel Thornton, and subsequent to the date of his original application a birth affidavit showing the birth of James Alvan Thornton was filed and is made a part of the record herein; by Eliza Thornton for herself and her minor child, Bessie Williams, and by Lottie Lynch for herself and her minor children, Herbert Gurle and Ophelia Riley.

The evidence shows that the applicant Katie Thornton was the slave of a Cherokee citizen at the commencement of the rebellion, and that she was taken out of the Cherokee Nation during the rebellion. She stated that she returned to said Nation in the fall of 1866, with Peter Meigs and family; but this Commission has found, in the case of Elizabeth Meigs, Cherokee Freedmen D 371, that though Peter Meigs, himself, returned to said Nation prior to January 19, 1867, he did not bring his family with him until a subsequent trip made in the spring of 1867. Hence, it appears that Katie Thornton, who came with said family, did not return to the Cherokee Nation until after January 19, 1867.

The evidence further shows that the applicants Willie, Emma, Joseph, Ethel, James Alvan and Eliza Thornton, Maggie Gurle, Bessie Williams, Lottie Lynch, Herbert Gurle and Ophelia Riley are the descendants of said Katie Thornton, born since the commencement of the rebellion, and have no rights in Cherokee Freedmen, except such as they may have acquired through her. None of the names of the applicants herein, are found on the 1880 authenticated Cherokee roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Ogle, Joseph Thornton, Ethel Thornton, James Alvan Thornton, Eliza Thornton, Bessie Williams, Lottie Lynch, Herbert Ogle and Bobbie Riley as Cherokee Freedmen should be denied, under the provisions of section twenty-one of the act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby.

Chairman.

(SIGNED). T. B. Needles.

Commissioner.

D. H. Breckinridge.

Commissioner.

W. E. Stanley.

Commissioner.

Muskogee, Indian Territory,
this MAR -5 1900

K 19560

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAR 10 1902

ACTING CHAIRMAN

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mrs. Margie Curls,
Chelsea, I. T.
Cherokee F-D-880
Register.

Vs. I.T. 388

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 7 1901

Acting Chairman

MEMORANDUM FROM U.S. DISTRICT COURT

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date JUN 7 - 1901

Post Office Tahlsa, I. T.

District COOWEESCOOWEE.

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents: Doubtful

Father ..... Citizenship .....

Mother ..... Citizenship .....

2. Name of wife Maggie Lewis Age 36

Owner's name ..... Citizenship .....

Year 1896 Page 141 No. 3515 District COOWEESCOOWEE.

Parents:

Father Henry Thornton ~~+~~ dead Citizenship Cherokee

Mother Katie " living Citizenship "

Names of Children:

3. ..... Year ..... Page ..... No. ..... Dist. .....

4. ..... Year ..... Page ..... No. ..... Dist. .....

5. ..... Year ..... Page ..... No. ..... Dist. .....

6. ..... Year ..... Page ..... No. ..... Dist. .....

7. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

10. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by W. I. Stenographer J. O. Rosson

On S. C. Rolls as Maggie Kirk

on Wallace Roll 8. 147 No 2967, Maggie Thornton COOWEESCOOWEE

Ref to D 578

Represented by Mellette & Lowrie Tahlsa, I. T.

6 KD 580

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
JUN 26 1901

ACTING CHAIRMAN.

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 26th, 1901.

Received of the Commission to the Five Civilized Tribes, one copy of the original testimony of June 7th, 1901, in the matter of the application of Maggie Curls for enrollment as a Freedman of the Cherokee Nation.

Mellett & Lewis

Attorneys for Applicantm.

Cherokee F. #D580.

Cherokee Freedmen
D 580

Muskogee, Indian Territory, March 21, 1904.

Maggie Curls,

Chelsea, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting, among others, your application for the enrollment of yourself as a Cherokee freedman. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Encl. V-57

Registered.

COPY.

Cherokee Freedmen
D 878, 880, 881,
882, 883.

Muskogee, Indian Territory, March 21, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alvon Thornton, Eliza Thornton, Bessie Williams, Lettie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles

Encl. V-62

Commissioner in Charge.

COPY.

Cherokee Freedmen
D 878, 880, 881,
882, 883.

Muskogee, Indian Territory, March 21, 1904.

Edgar Smith,

Attorney for Katie Thornton, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alven Thornton, Eliza Thornton, Bessie Williams, Lettie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Encl. V-61.

Registered.

Commissioner in Charge.

COPY.

Cherokee Freedmen
D 570, 580, 581,
582, 583.

Muskogee, Indian Territory, March 21, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Katie Thornton, et al., including the Commission's decision dated March 5, 1904, rejecting the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alvon Thornton, Eliza Thornton, Bessie Williams, Lettie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen.

Respectfully,

T. B. Needles

Commissioner in Charge.

Encl. V-63

Through the

Commissioner of Indian Affairs.

COPY

Refer in reply to the following
Land 20179-1904.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 9, 1904.

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes, dated March 21, 1904, transmitting the record of the applications for enrollment as Cherokee Freedmen of Katie Thornton, and her minor children Willie and Emma Thornton; by Maggie Curls for herself; by Joseph Thornton for himself and his minor children Ethel and James Alvon Thornton; by Eliza Thornton for herself and herminor child, Bessie William, and by Lottie Lynch for herself and herminor children, Herbert Curls and Gedalia Riley.

March 5, 1904, the Commission found that the applicants were not entitled to enrollment as Cherokee Freedmen.

The evidence shows that the applicant, Katie Thornton was the slave of a Cherokee citizen at the commencement of the war of the Rebellion and that she was taken out of the Cherokee Nation during the rebellion. She states that her eldest child, Maggie was born in the year 1866 in Kansas, and that she returned to the Cherokee Nation in the fall of 1866.

Her witness, Harry Still, swears that he saw the applicant, Katie Thornton, in the Cherokee Nation in the fall of 1866,

and that she had with her Maggie and two or three younger children of her own. Her witness, Lewis Whitmire, swears that he saw the applicant, Katie Thornton, in the Cherokee Nation in the fall of 1866, and that she had three children and the oldest two went to school. With the oldest child of the applicant, Katie Thornton, born in 1863, it is not deemed probable that she arrived in the Cherokee Nation with three children in 1866.

The applicants, Millie, Emma, Joseph, Ethel, James Alvin and Elima Thornton, Maggie Curls, Minnie Williams, Lettie Lynch Herbert Curls and Godalia Riley are descendants of the applicant Katie Thornton and were born in 1863 and since, and have no rights as Cherokee Freedmen, except such as they may have acquired through her.

None of the names of the applicants are found on the 1880 authenticated Cherokee Roll.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

A.C. Tonner,
Acting Commissioner.

M.M.M.
W.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

DEPARTMENT OF THE INTERIOR,

[illegible], June 22, 1904.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

March 21, 1904, you transmitted the record in the consolidated cases involving the applications of Ellis Thornton, et al., (T.[illegible] et al), for enrollment as Shawnee freedmen, including your decision of March 5, 1904, rejecting said applications.

Reporting in the matter June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed herewith.

The appellant enquiry in said communication, and your decision, in so far as it rejects the applicants, is affirmed.

Respectfully,

(Signed) [illegible],

Secretary.

1 inclosure.

Cherokee Freedmen,
D-676, 680, 681,
682 & 683.

Muskogee, Indian Territory, June 29, 1904.

Edgar Smith,

Attorney for Katie Thornton, et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 8, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie, Millie, Emma, Joseph, Ethel, James Alven and Eliza Thornton, Maggie and Herbert Curls, Bessie Williams, Lottie Lynch and Sedalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen,
D-678,100,681,
682 & 683.

Muskogee, Indian Territory, June 29, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie, Willie, Emma, Joseph, Ethel, James Alvon, and Eliza Thornton; Maggie and Norbert Curie; Bessie Williams; Lottie Lynch; and Sedalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen,
D-580.

Muskogee, Indian Territory, June 29, 1904.

Maggie Curls,

Chelsea, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision, dated March 5, 1904, rejecting, among others, your application for enrollment as Cherokee freedman, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
28-411

Muskogee, Indian Territory, May 26, 1906.

Maggie Curls,
Chelsea, Indian Territory.

Dear Madam:-

You are hereby advised that the motion filed by your attorneys September 7, 1905, for a review in your Cherokee freedman enrollment case, was dismissed by the Department May 2, 1906.

Respectfully,

Commissioner.

LMC

Muskogee, Indian Territory, May 23, 1906.

Blue & Bulger,

Attorneys for Eliza A. Arnold, et al.,

Vinita, Indian Territory.

Dear Sir:-

You are advised that this office is in receipt of Departmental letter of May 8, 1906, a copy of which is enclosed herewith, denying motions filed by you September 7, 1905 for review in the Cherokee Freedmen enrollment cases of Eliza A. Arnold and others named in said letter.

Respectfully,

Commissioner.

MMP

Muskogee, Indian Territory, May 29, 1906.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Vinita, Indian Territory.

Dear Sirs-

You are advised that this office is in receipt of Departmental letter of May 2, 1906, a copy of which is enclosed herewith, denying motions by Blue & Bulger, filed September 7, 1905, for review in the Cherokee Freedmen enrollment cases of Eliza A. Arnold and others named in said letter.

Respectfully,

Commissioner.

LMC

Muskogee, Indian Territory, February 13, 1907

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed a motion filed June 11, 1906, by Starr & Patten, Vinita, Indian Territory, for a rehearing of the consolidated Cherokee freedman case of Katie Thornton et al. The reply of the Attorney for the Cherokee Nation to this motion, filed July 5, 1906, is also enclosed. July 21, 1906, there was filed by attorneys for applicants an amended motion for rehearing.

The decision of the Commission to the Five Civilized Tribes dated March 8, 1904, rejecting the applications for the enrollment of the applicants embraced in the consolidated Cherokee freedman case of Katie Thornton et al. was affirmed by the Department June 21, 1904 (I.T.D. 4736-1904).

Unquestionably the motion for a rehearing of this case is without merit.

Attached to the motion for rehearing is what purports

to be sworn statement by J. M. Johnston, who states that he was living in Anderson County, Kansas, in the year 1866; that he knew Henry Thornton; that Henry Thornton and his wife separated, and that his wife came to the Cherokee Nation, Indian Territory, in the fall of 1866." It is also supported by the affidavits of Leander, Joe , and Tobias Bean.

Attached to the amended motion for rehearing are affidavits by Betsy Whitmire, Eliza Whitmire, Tobias Bean and Arthur Bean, all of whom sign by mark, and the affidavit of said J. M. Johnston.

J. M. Johnston, whose postoffice address is Garnett, Kansas, has testified for Starr & Patten in several Cherokee freedmen cases, as have also Betsy Whitmire and Eliza Whitmire. The other parties to the affidavits in support of this motion have testified in practically every Cherokee freedman case tried before the Commissioner in the last eighteen months, in which Messrs. Starr & Patten have appeared as attorneys.

The statements contained in the affidavits are

general, and merely state that Katie Thornton returned to the Cherokee Nation and established a residence therein in 1866.

Katie Thornton swore that she returned to the Cherokee Nation after the war of the rebellion, with her husband, Henry Thornton. The Cherokee Nation introduced W. A. Johnson, of Garnett, Kansas, who swore that he became acquainted with Henry Thornton in 1866 or 1867, and that he continued to reside in Kansas until about 1870, and also William Ray of Garnett, Kansas, who swore that Henry Thornton and his wife left the state of Kansas , in company with his brother-in-law and sister, on the first day of March, 1871. It will be seen that the statement in the affidavit of J. M. Johnston to the effect that Henry Thornton and his wife separated, and that his wife came to the Cherokee Nation in 1866, is directly contradictory to the sworn statement of Katie Thornton herself.

There is nothing to show that the evidence now sought to be introduced is newly discovered, or that with due diligence the same could not have been secured when the case

Secretary 4.

was heard before the Commission; nor is there anything to show that the motion is not made for the purpose of delay. Following the rulings of the Department of September 26, 1906 (I.T.D. 19464-19068-1906), in the Cherokee freedman case of Jennie Martin et al., and of March 24, 1906(I.T.D. 2758-1905, 6206-1903), in the Cherokee freedman case of Ann Johnson et al., it is respectfully recommended that the motion be denied.

Respectfully,

Through the
Commissioner of Indian Affairs.

Encl. B-15

Commissioner

L M B

Muskogee, Indian Territory, February, 13, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith a motion filed June 11, 1906, by Starr & Patten, Vinita, Indian Territory, for a rehearing of the consolidated Cherokee freedamn case of Katie Thornton et.al. The reply of the Attorney for the Cherokee Nation to this motion, filed July 5, 1906, is also enclosed. July 21, 1906, there was filed by attorneys for applicants an amended motion for rehearing.

The decision of the Commissioner to the Five Civilized Tribes dated March 5, 1904, rejecting the application for the enrollmen of the applicants embraced in the consolidated Cherokee freedman case of Katie Thornton et.al. was affirmed by the Department June 21, 1904 (I.T.D. 4736-1904).

Unquestionably the motion for a rehearing of this case is without merit.

Attached to the motion for rehearing is what purports to be sworn statements by J. M. Johnson, who states that he was living in Anderson County Kansas, in the year 1866; that he knew Henry Thornton; that Henry Thornton and his wife separated, and that his wife "came to the Cherokee Nation, Indian Territory, in the fall of 1866." It is also supported by the affidavits of

Leander, Joe, and Tobias Bean.

Attached to the amended motion for rehearing are affidavits by Betsy Whitmire, Eliza Whitmire, Tobias Bean and Arthur Bean, all of whom sign by mark, and the affidavit of said J. M. Johnston.

J. M. Johnston, whose postoffice address is Garnett, Kansas has testified for Starr & Patten in several Cherokee freedman cases, as have Betsy Whitmire and Eliza Whitmire. The other parties to the affidavits in support of this motion have testified in practically every Cherokee freedman case tried before the Commissioner in the last eighteen months, in which Messrs. Starr & Patten have appeared as attorneys.

The statements contained in the affidavits are general, and merely state that Katie Thornton returned to the Cherokee Nation and established a residence therein in 1866.

Katie Thornton swore that she returned to the Cherokee Nation after the war of the rebellion, with her husband, Henry Thornton. The Cherokee Nation introduced W. A. Johnson, of Garnett Kansas, who swore that he became acquainted with Henry Thornton in 1866 or 1867, and that He continued to reside in Kansas until about 1870, and also William Ray of Garnett Kansas, who swore that Henry Thornton and his wife left the state of Kansas, in company with his brother-in-law and sister, on the first day of March, 1871. It will be seen that the statement in the affidavit of J. M. Johnston to the effect that Henry Thornton and his wife separated, and that his wife came to the Cherokee Nation in 1866, is directly contradictory to the sworn statement

Secretary-3

of Katie Thornton herself.

There is nothing to show that the evidence now sought to be be introduced is newly discovered, or that with due diligence the same could not have been secured when the case was heard before the Commission, nor is there anything to show that the motion is not made for the purpose of delay. Following the rulings of the Department of September 26, 1906 (I.T.D. 18464-19068-1906), in the Cherokee freedman case of Jennie Martin et. al, and of March 24, 1906, (I.T.D. 2758-1905, 6206-1903), in the Cherokee freedman case of Ann Johnson et. al., itis respectfully recommended that the motion be denied.

Respectfully,

Through the

Commissioner of Indian Affairs.

Commissioner.

Encl. B-15

L M B

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND.
15621-1907
16332- "

(COPY)

February 27, 1907.

The Honorable,

The Secretary of the Interior,

Sir:

Referring to Departmental letter of February 13, 1907, denying motion for review of Departmental decision of August 2, 1905, in Cherokee freedmen case of Katie Thornton, et al., I have the honor to transmit herewith a communication from Commissioner Bixby, dated February 13, 1907, enclosing motion filed June 11, 1906, by Starr & Patten, Vinita, I. T., for a rehearing of the consolidated Cherokee freedmen case of Katie Thornton, et al.

This motion is wholly without merit, as there is nothing to show that the evidence now sought to be introduced is in any way newly discovered or that with due diligence it could not have been secured when the case was heard before the Commission originally, nor is there any showing made that the motion was not for the purpose of delay. It is recommended that it be denied.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

EWE--SD.

COPY

DEPARTMENT OF THE INTERIOR, W.H.M.

D.C.12667-1907. WASHINGTON. C.R.W.

I.T.D.5738-1907.

L.R.S. March 2, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

February 27, 1907 (Land 16332), the Indian Office transmitted your report of February 13, 1907, forwarding a motion for review in the Cherokee freedmen case of Katie Thornton, et al., and concurred in your recommendation that the motion be denied.

The Department also concurs in your recommendation, and the motion is accordingly denied.

A copy of Indian Office letter is enclosed for your information. All the other papers in the case have been returned for the files of the Indian Office, together with a carbon copy hereof.

Respectfully,

Jesse E. Wilson

Assistant Secretary.

1 enclosure, and
7 enclosures to Ind. Of.,
with copy hereof.

A.F.Mc
3-207.

Cherokee P.R.
411

Muskogee, Indian Territory, April 1, 1907.

Maggie Curlis,
Chelsea, Indian Territory.

Dear Madam:

You are hereby advised that the motion for a re-hearing filed June 11, 1906, by your attorneys, Starr & Patton, Vinita, Indian Territory, in the matter of the application for your enrollment as a Cherokee freedman, was denied by the Secretary of the Interior, March 2, 1907.

Respectfully,

Geo. D. Rodgers.
Commissioner.

MPI

(COPY)

Cherokee F.R.

410 et al.

Muskogee, Indian Territory, April 1, 1907.

Starr & Patten,

Attorneys for Katie Thornton, et al.

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motion for a rehearing filed by you June 11, 1906, in the matter of the application for the enrollment of Katie Thornton, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Tas. D. Rodgers

Commissioner.

Enc I-3

RPI

Cher. Fr. R-412

See Cher. Fr. D-579, R-410-11-12

Cher Fr. R-412

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZD TRIBES,
CHELSEA, IT. T., JUNE 7th, 1901.

In the matter of the application of Joseph Thornton for the enrollment of himself and one child as Cherokee Freedmen; said Thornton being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:

Messrs. Mellette & Smith, For Applicants:
Mr. W. W. Hastings, for Cherokee Nation.

Q What is your name? A Joseph Thornton.
Q What is your age? A 25.
Q What is your post office address? A Hudson.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Is your name upon the authenticated roll of 1880? A No, sir, on the Wallace and Clifton.
Q Who do you desire to enroll besides yourself? A I have one child.
Q What is the name of the child? A Ethel Thornton.
Q How old is Ethel? A She is a year and four months old.
Q Are you married? A Yes, sir.
Q What is your wife's name? A Hattie.
Q Is she a citizen? A Yes, sir.
Q Has she been enrolled? A No, sir.
Q Do you apply for her? A No, sir, her mother is not present.
Q You haven't got the testmony present? A No, sir.
Q What is her mother's name? A Delilah Rowe.

BY MR. SMITH:

Q Have you and your wife disctssed the matter as to whether the child would be put with your application or hers?
A Yes, sir.
Q You want to apply for the child do you? A Yes, sir.

BY COM'R NEEDLES:

Q Have you any proof of your marriage to Hattie Rowe? A No, sir, but I have witnesses.
Q Well, when were you married? A Been married, let's see, three years.
Q Well, have you a marriage license? A No, sir, I didn't get any; preacher promises to send them to me but never sent them.
Q Your wife claims to be a citizen does she? A Yes, sir.
Q Well, who married you? A J. W. Dillard.
Q Where does he live? A Wagoner.
Q Can't you get a certificate from him? A Well he promised to send me one and I give him the money and he never send it.

BY MR. HASTINGS:

Q When were you married? A In 1897.
Q What time? A July, the; I disremember now, it was in July though, I disremember the date.
Q Did you get a license from the United States Clerk?
A No, sir.
Q You didn't get any? A No, sir.
Q You didn't get any license of any kind? A No, sir, didn't have to have them.
Q Your wife claims to be a citizen? A Yes, sir.
Q Did she draw strip money? A No, sir.
Q What was her father's name? A I don't know his name.

Q What was her mother's name? A Delilah Rowe.

MR. HASTINGS: Comes now the representatives of the Cherokee Nation and object to the introduction and consideration of any oral testimony with reference to the marriage of the applicant to his wife unless it is subsequently shown that his wife was a citizen of the Cherokee Nation at the time of the marriage for the reason that if she was a non-citizen that under the law of 1897, thedate of the marriage, a license must be procured and that is the best testimony.

MARY WATIE, being duly sworn by Commissioner Needles, testified as follows: BY MR. SMITH:

Q What is your name? A Mary Watie.
Q Where do you live? A On Big Creek.
Q How old are you? A I am 43 years old.
Q Do you know this applicant here, Joe Thornton? A Yes, sir.
Q Do you know his wife? A Yes, sir.
Q What is her name? A Hattie.
Q Did you see them married? A Yes, sir.
Q Where were they married? A At home there.
Q Where was that? A About a mile from my house.
Q Who married them? A I know he was married; he was out preacher at that time, Mr. Dillard.
Q Did they then live together as man and wife after that? A Yes, sir.
Q Living together now? A Yes, sir.

JOSEPH THORNTON, the applicant, re-called: BY COM'R NEEDLES:

Q You didn't get any marriage license? A No, sir.
Q Have you always lived in the Cherokee Nation? A Yes, sir.
Q Is this child alive and living with you? A Yes, sir.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's name not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 141, #3610, Joe Thornton, Cooweescoowee District.

The Wallace Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 142, #2968, Joseph Thornton, Cooweescoowee District.

COM'R NEEDLES:--Joseph Thornton applies for the enrollment of himself. He cannot be identified upon the authenticated roll of 1880 or the census roll of 1896. He is duly identified upon the Kern-Clifton roll and the Wallace Roll. He also applies for the enrollment of one child, Ethel. He avers that he was married to one Delilah Rowe, who claims to be a Cherokee Freedman who has not yet been listed for enrollment. He makes satisfactory proof of his marriage to the said Delilah Rowe, and that the said Ethel is the result of said marriage, but avers and acknowledges that he had no legal marriage license, consequently Joseph Thornton and child, Ethel, will now be listed for enrollment as Cherokee Freedmen, and it will be necessary for him to make satisfactory proof of birth of his child, Ethel, whose name does not appear upon the rolls. Reference is made to the testimony taken in the case of Katie Thornton, D.#57, who

was this day listed for enrollment as a Cherokee Freedman, and the testimony in the said case will be made part of the record in the case at bar and a copy of the same will be filed with the case of the said Joseph Thornton.

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J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rossen

Subscribed and sworn to before me this 17th day of June, 1901.

Commissioner.

To be filed with case of Joseph Thornton, C. F. D. #681.

DEPARTMENT OF THE INTERIOR/
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., JUNE 7, 1901.

In the matter of the application of Katie Thornton for the enrollment of herself and two children as Cherokee Freedmen; she being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Mellette & Smith, for Applicants;
W. W. Hastings, for Cherokee Nation.

Q What is your name? A Katie Thornton.
Q How old are you, Katie? A I just really don't know, but they guessed at it before and they thought I was 65 in the other court.
Q About five years ago? A Yes, sir.
Q That will make you about seventy now? A Yes, sir, I guess so.
Q What is your post office? A Hudson.
Q What district do you live in? A Coowescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they under age and unmarried? A They are unmarried. I have two to enroll.
Q Are they under age? A Yes, sir.
Q What are their names? A Maggie Curls.
Q Is she married? A Yes, sir.
Q Are these children all married? A Yes, sir, all married but two. The youngest one is Millie Thornton.
Q How old is Millie? A She is 19.
Q The name of the next child? A Emma Thornton.
Q How old is Emma? A 17.
Q Is your name on the roll of 1880? A No, sir.
Q Did you draw what is known as the strip money? A Yes, sir, I drawed strip money and Wallace money too.
Q Mark Are you married now? A No, sir, my husband is dead.
Q What was his name? A Henry Thornton.
Q Is he living? A No, sir.

The 1880 authenticated roll and the 1896 census roll examined and the names of the applicants not found thereon.
The Kern-Clifton Roll examined and the names of the applicants are found thereon as follows:
Page 141, No. 3509, Katie Thornton, Coowescoowee Dist.
Page 141, No. 3512, Millie Throtnon, Coowescoowee Dist.
Page 141, No. 3513, Emma Thornton, Coowescoowee Dist.
The Wallace roll examined and the name of the applicant is found on page 195, No. 3549, Katie Thornton, Ds district.

Q Have you got any witnesses, Katie? A Yes, sir.
Q Who are they? A Harry Still, Jack Landrum, Frank Ross, and Lewis Whitmire.
Q Katie were you a slave? A Yes, sir.
Q To whom did you belong? A John Thornton.
Q Was he a Cherokee citizen? A Yes, sir, Cherokee citizen.
Q An Indian? A Yes, sir.
Q Were you taken out of the Nation during the war? A Yes, sir.
Q Where to? A We went to Fort Smith.
Q Fort Scott, Kansas? A Yes, sir.
Q Who did you go with? A We went out with the people that lived with Thornton, with Fannie Thornton.
Q Went out with Thornton's slaves? A Yes, sir.
Q When did you come back? A Come back in '66.

Q Did you say you come back in '66? A Yes, sir.
Q Where have you lived since that time? A I lived on Lightning Creek first.
Q Have you always lived in the Cherokee Nation since you come back?
A Yes, sir, never been no place else since I come back.
Q Where were y ur children, Millie and Emma born? A In the Nation.
Q Cherokee Nation? A Yes, sir.
Q Have you lived in the Cherokee Nation ever since they were born?
A Yes, sir, them two live with me.
Q Your husband's name was Henry Throtnon? A Yes, sir.
Q How long has he been dead? A He has been dead, this May past, six years.
Q Have you married since? A No, sir, never married since.
Q Was he your first husband? A Yes, sir, he was my first husband.
Q He is the father of Millie and Emma? A Yes, sir.
Q Was he a Cherokee Freedman? A Yes, sir.
Q Who did he belong to? A He belonged to John Thornton.
Q Were you married to him before the war? A Yes, sir, way before the war.
Q Did he go with you when you went out? A We went out together.
Q Did you return together? A Yes sir, both come back together.
W. W. Hastings: Did your husband join the army the time of the war? A Yes.
Q He was in the army until the war closed? A No, sir, he got hurt and he come home; he went out to chop some wood and he hurt his knee and he couldn't walk so they sent him home.
Q When did he come home? A He come home before the soldiers left Fort Scott.
Q About how long before the war closed? A They hadn't started out; they hadn't left Fort Scott.
Q And he remained there at Fort Scott afterwards? A No, sir, we moved afterwards to Garnett with my mother, and after he got crippled I went there for protection, for them to help me.
Q What was your mother's name? A Lydia Ross; she belonged to Lewis Ross.
Q Did you stay in Kansas until after the war closed? A No, I came back in '66.
Q Well the war was over? A Yes, it was over then.
Q What is your oldest child's name? A Maggie Curls.
Q How old is she? A She is somewhere about 36 years old, as near as I can remember.
Q Where was she born? A She was born in Kansas, Maggie was.
Q About how old was she when she come to this country?
A Somewhere near one year old.
Q What time in the year did you come here? A I come down here in the fall, in September, along in September.
Q Are you positive about that? A Yes, I am.
Q Who come with you? A I come along with Peter Meigs then after they had gone after their family.
Q They had been here? A Yes, sir, and come back.
Q Did your husband come with you? A Yes, sir, we all come together.
Q Who else come besides Peter Meigs? A We were the last ones that started. There were three families.
Q Name them? A Peter Meigs, Caesar Smith, David Mayes; there was a lot of them in ahead of us, and we didn't get together; they lived in different places.
Q Did you start from Garnett? A I did; the others didn't live there; we got together on the road.
Q Was Divid Meigs along? A Yes, sir, he was along; Uncle Pete and them had been here and went back after their families.
Q Are you certain that David Meigs' wife and family was along?
A Yes, sir.

Q Where did you come to down here? A We come to Big Creek, down there where they all lived, and stopped there and camped; we stayed there I believe one and a half days.
Q Then where did you go? A Nowhere; I live down to Lightning Creek.
Q Was Madden living there? A No, we made the place.
Q The place that Madden is living on now? A Yes, sir; that is the first place I stopped to locate.
Q With the exception of a day or two you came directly to Madden's place? A No, I went to Mose Whitmire's a few days. We stayed a day or two, and when I left there I come over to where we live.
Q Where you live now? A No, to where Madden lived.
Q How far does Madden live from Hayden? A I don't know; I guess about three-quarters of a mile.
Q What direction? A Ind of south.
Q Was there any house there then on the Maden place, the place that you made? A No, there wasn't no house until we built it.
Q Built it that fall? A Yes, sir.
Q Same fall you come? A Yes, sir, the same fall we come.
Q Who helped your husband to build it? A Lewis Right, Nels. Wroght, Aaron and Mose whitmire and Ransom Woodall; about one dozen or fifteen men.
Q Did you know any Cherokees living in that country then?
A No, sir, never saw any then.
Q Where did you get anything to eat? A When we wanted anything, a man had to go into the states; they were gone sometimes several days. I think they went in the States somewhere to get it.
Q Was Aaron Whitmire--did he have a field then? A No, they didn't have time to have no field; he just come in then.
Q Did he have a house? A He had some houses up.
Q Did you see Harry Still down there then? A I didn't see him when I first come.
Q How long after you first come was it? A I don't know how long it was before I saw Harry, but I saw his mother.
Q About how long afterwards? A I don't know; I never kept any account of it; I saw Harry but I don't know when.
Q Where was Harry living? A He said he come from his mother.
Q Where did she live? A She lived up on the prairie, on the hill from Hayden.
Q About how far from Hayden? A I couldn't tell; two miles or one--and a half miles.
Q Was she living in a house then? A She was living in a house there then.
Q Who was living with her? A This man Hayden.
Q About how far were they living from you? A I guess somwhere about two miles I guess.
Q In the same neighborhood? A All in the same neighborhood.
Q You knew her did you? A Yes, sir.
Q Did you know her before? A I knowed her before the war.
Q And you got acquainted with her directly after you come down there? A Yes, sir, all old acquaintances and we met each other.
Q Her name was Hayden then? A Not before the war; since the war it was.
Q Her husband was living with her then? A Yes, sir.
Q In the fall of '66? A Yes, sir.
Q You are positive about that? A Why of course I am.
Q They were living within two miles of you? A Yes, I guess it was, but I am not much of a judge to that.
Q Where was Mose Whitmire living then? A He lived right in front of us, not more than half a mile. He lived in front down the hill, and I lived on the hill; he lived in front of me.
Q Did he have a field then? A No, he didn't have no field.

Q Did he have any corn? A No, he didn't have no corn; he had a little there, I don't know where he got that.
Q You just made that place on the public domain? A Yes, sir, I made mine on the public domain.
Q Where did you live before the war? A I lived at John Thornton's.
Q In what part of the Nation was that? A It is a queer name, but I can call the name.
Q What town is near there now? A There was no town there.
Q I mean now where Thornton lives? A I haven't been back there since I left. I don't know. I will think of the place directly.
Q Was it Tahlequah, or Flint, Seingenake? A It was Guingenake we lived.
Q How far did you live from Lewis Whitmire? A I think it was about three miles. I think it was about that far. I know where they lived.
Q You and your husband come back down here together? A Yes, sir, both came together.
Q Did you come in a wagon? A Yes, sir.
Q Did you pass through any town from Fort Scott? A We didn't come from Fort Scott.
Q I mean Garnett? A We come through several little stations.
Q What stations? A I can't remember but one, and I don't remember whether I can remember that; I can't call the name; it has been so long, I got the name; we came through several staions; I can't think of them.
Q Do you think you came through Chetopa? A No, we didn't come through Chetopa.
Q Did you come through Coffeyville? A We came through Pumpkin, where old Parker used to be; that is the way I came.
Q Do you know Henry Armstrong that lived by Coody's Bluff? A No, sir.
Q Do you know Sal. Coker? A No, sir, I don't know him either.
Q Was there any Delaware Indians living up there when you came? A No, sir, I never saw them.
Q Have you seen any since? A Since then I have seen Delaware Indians time and again, and I see them every once in a while yet.
Q Did you have any witnesses before the Court before? A Yes, sir, I had just one.
Q Which one? A Old man Peter Meigs.

HARRY STILL, being sworn by Commissioner Needles and examined by Mr. Smith, Applicant's Attorney, testified as follows:

Q State your name. A Harry Still.
Q Where do you live? A Hayden.
Q How long have you lived in the Cherokee Nation? A All my life, 54 years.
Q Do you know this applicant, Katie Thornton? A Yes, sir.
Q How long have you known her? A I knowed her ever since I was a little fellow.
Q Was she born a slave? A Yes, sir.
Q Do you know who she belonged to before the war? A TO Thornton.
Q What Thornton was that? A We called him Doc. Thornton.
Q Was he a citizen of the Cherokee Nation? A Yes, sir. I don't know whether she belonged to him or his wife. I know she belonged to the Thornton family.
Q Do you know what Thornton's wife's name was before she married? A Frankie Thornton they called her.
Q Were they citizens of the Cherokee Nation? A Yes, sir.
Q Where did they live before the war? A I think they lived in Guingenake.
Q Did you see this woman, Katie Thornton, in the Cherokee Nation after the war? A Yes, sir.
Q When did you first see her? A In the fall of '65.

Q Where? A On Lightning Creek she settled a place known now as Bill Madden place. Bill Madden lives on her old place.
Q Was there any other members of her family with her, or was she by herself? A She had Henry, her husband; Maggie, she had two or three children and a step-son. I forget his name; he is dead. She had several children.
Q What is her husband's name? A Henryp he was a crippled man.
Q Do you know where this woman, Katie Thornton, has been living since that time? A Yes, sir.
Q Where? A On Big Creek.
Q Do you know whether she has been living there continuously or not? A Yes, sir.
Q Has she? A Yes, sir, when she left Lightning Creek she went to Big Creek and stopped, and has been there ever since.
Q Had she any grown children who are married? A Yes, sir.
Q Who are they? A Maggie.
Q Who is Maggie married to? A Julius Curls. That is her oldest girl. She has one that married Jesse Riley. I don't know her name, and she has a boy named Joe. She has several children.
Q Where does Jesse Riley's wife live? A Right across that hill there / (Indicating.)
Q How far from Chelsea? A I expect it is three miles or four.
Q Who does she live with? A Her husband.
Q What is his name? A Jesse Riley.
Q Where does Maggie Curls live? A She lives right at the foot of that hill there? (Indicating.)
Q How far from Chelsea? A About two and a half or three miles.
Q Who does she live with? A Her husband.
Q Do you know where Joe Thornton lives? A Yes, sir.
Q Is he married? A Yes, sir.
Q Where does he live? A On Big Creek.
Q How long has he been there? A Ever since his mother left for Big Creek.
Q How long did you say that Joe Thornton had been living in the Cherokee Nation? A Ever since his father and mother moved to Lightning Creek. He never was out except across the line and then back home.
Q When did his mother move to Lightning Creek? A In the fall of '68; sometime in December, I think.
Q Do you know when Katie's daughter, who is now married to Jesse Riley, do you know how long she has been married? A No, sir, I don't know how long Maggie has been married. I don't know anything about the marriages. I know she is married. I know she lives in Vinita a while. I know she is married to Julius Curls, but don't know anything about her marriage, where she married.

Q. W. Hastings: How old are you? A About 54 years old.
Q You were about 18 years old when the war closed? A Yes, I reckon so. I might have been; I am about 54 years old now.
Q You are certain you saw this woman? A Yes, sir.
Q You are positive about that? A Yes, I am positive. I have circumstances that make it positive.
Q You were living with your mother? A Yes, sir.
Q On a place that you had made? A Yes, sir.
Q You weren't living with Aaron Wright? A No, sir.
Q Was Hayden was living with your mother at that time? A No, sir.
Q Wasn't Mr. Hayden and his wife, she was your mother, living about [illegible] this summer? A Yes, sir.
Q Was Mrs. Hayden there? A No, sir, Mr. Hayden wasn't there.
Q How many children did she have when you first saw her there?
A She had three or four children.
Q Name them? A Maggie, and Jesse's wife, I don't know her name, and Joe and a step-boy, I forget his name.

Q You remember of seeing those four? A Yes, sir, she had those four.
Q And they were there in the fall of '66? A Yes, sir.
Q Did you testify for her five years ago that she came back in the fall of '66? A No, sir.
Q You didn't say anything then about seeing her? A Yes, sir, I said something about seeing her, and Albert Morris said she come to Big Creek in '66, and you remember it.
Q You didn't go on the stand then? A No, sir.
Q You didn't witness for her? A No, sir.
Q You were living over there two miles from her? A Yes, sir.
Q And you saw rebuttal testimony go in against her did you?
A No, sir, I didn't see any go in against her.
Q You didn't hear it? A No, sir.
Q I thought you said you was present when Albert Morris testified?
A I said I was talking down stairs with Albert Morris and you were there.
Q You didn't come up and witness for her? A No, sir.
Q She made the Madden place, did she? A Yes, sir.

Mr. Smith: How long was it before Mr. Hayden come down? A It was perhaps about six months before Mr. Hayden ever come to the Cherokee Nation, and he didn't stay no time then, he went back.
Q He himself was not there at the time you were speaking about?
A No, sir.
Q Where was Mrs. Hayden? A She was there on Lightning Creek, my mother was.
Q Is Mrs. Hayden your mother? A Yes, sir.
Q How old were these children, Jesse Riley's wife and Maggie, who is now Maggie Curls, in 1866? A They were tolerably good size girls.
Q About how old? A I don't know how old they were. Maggie was a good size girl; I remember her and I remember the step-boy; the others I don't remember much about them, but I knew Henry then and have knowed them all my life, but I never paid any attention to the children.

W. W. Hastings: How old do you think Maggie was when you first saw her? A I never paid no attention, but I know she was with her mother.

Commissioner: you say Hayden wasn't there? A No, sir, he wasn't there.
Q Would he come backwards and forwards occasionally? A Yes, sir, he would come backward and forward occasionally.

W. W. Hastings: About how often did he come back? A I guess he come back two or three times before he come back to stay.
Q You testified that you bought that place from Sam Brad?
A Yes, sir.
Q When did you buy it? A '72 or '3.
Q Did Hayden ever live down there before that time? A No, sir, my mother was there.
Q Mrs. Hayden lived up with Hayden in Kansas? A No, sir, she never did.
Q She lived right down there, did she? A Yes, sir, right where I brought her.
Q On the first place she made? A Yes, sir.
Q She lived there for seven years? A Yes, sir.

FRANK ROSS, being sworn by Commissioner Needles and examined by Mr. Smith, Attorney for Applicant, testified as follows:
Q State your name? A Frank Ross.
Q Where do you live? A I live on Lightning Creek.
Q What is your post office? A Hayden.

Q .How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant here, Katie Thornton? A Yes, sir.
Q How long have you known her? A All my life.
Commissioner: Well how old are you? A 55.
Mr. Smith: Do you know whether she was a slave or not?
A Yes, sir, I do.
Q Was she? A Yes, sir.
Q Whose slave?w A She belonged to Lewis Ross' daughter, Minta Vann.
Q Was she an Indian? A Yes, sir.
Q Cherokee Indian? A Yes.
Q Where did she live before the war? A She lived down close to Tahlequah.
Q Do you know whether Katie Thornton here was ever out of the Cherokee Nation, or what became of her during the war? A She went to Kansas during the war.
Q When did you first see her back in the Cherokee Nation after the war? A I saw her back in '66 on Lightning Creek; in the winter of '66 on the place where Bill Madden is living at now she was living.
Q Do you know where she has been living since that time? A She is living on Big Creek. After she moved from there, she moved to Big Creek.
Q Has she lived in the Cherokee Nation continuously since that time? A As far as I know, she has; I never heard of her being our.
Q Do you know her children? A I know them when I see them. I am not acquainted with them. I am acquainted with one of them, the oldest girl, Maggie.
Q Is she married or single? A She is married.
Q To whom is she married? A Julius Curls.
Q Do you know any other of the older children over 21? A No, sir, I am not well acquainted with them. I know them when I see them; she had a boy by the name of Billy, but he is dead.
Q Any other boys that you know? A No, sir, not that I know of.
Q Are you acquainted with any other of her girls? A Jesse Riley Riley has one of her girls, but I don't remember her name.
W. W. Hastings: Where were you living after the war? A Living on Price Creek.
Q Below here? A Yes, sir, below here.
Q This woman was living above you? A She was living on Lightning Creek; that is above me and way above me.
Q How far? A It must be 22 or three miles.
Q Did you testify for her five years ago? A No.
Q You weron't a witness for her then? A No, I wasn't; I knowed her alright, but I wasn't a witness for her.
Q Did you see her husband in '66? A Henry, yes, sir, I saw him.
Q Where were they living then? A Where Bill Madden is living now
Q What time in '66? A Along in the winter a little before Christmas.
Q Did they have a house up there? A They were fixing to build a house; they didn't have one then; I didn't see any; they were fixing to build one.
Q Well, were they in tents? A Yes, they were in a tent.
Q On the Madden place? A Right where the Madden place is now. Maddens are living in that house now.
Q Did you see any children with them? A I seen a boy, Billy, and a little girl.
Q Is that all? A That is all I noticed; I don't remember of any more.
Q How long did you stay there at that time? A Four or five days.
Q With them? A No, I was there in the neighborhood with Nelson and Rose.
Q Do you undertake to say you remember of seeing people 35 years ago and remember the exact dates? A Yes, sir.
Q Are you willing to swear to it? A Yes, sir.

JACK LANDRUM, being swor. by Commissioner Needles, testified:

W. W. Hastings: Comes now the representative of the Cherokee Nation and protests against the introduction of this witness for the reason that he was called and sworn and put under the rule which has been explained to all these colored people for the last week or ten days, if not longer, and this witness got up from the second bench from behind the rope in the crowd and was present during the taking of the testimony of the preceding witness, and was pretty near enough to hear the inquiries and answers made.

Mr. Smith: If the Court please, I don't know who was called and sworn.

W. W. Hastings: And the bailiff being asked by the Commissioner where he was, and he answered second seat.

Commissioner: Well you are under oath. Did you hear any part of the testimony that was given here in this case? A No, sir, I didn't.

Q Where were you during the examination of these witnesses?
A I was way back yonder, and I can prove it.
Q Weren't you on the second bench here? A No, sir, I can prove that I wasn't.
Q Who can you prove it by? A By all the folks that are sitting back there.
Q Are you hard of hearing anyhow? A I can't hear very good.

Mr. Smith: Where were you when sworn and put under the rule where did you go? A I went back there.

Q I don't know where you went to. Who was sworn with you?
A Harry Still and Frank Rose.
Q Well where did you go when you were told to go out of hearing of the witnesses? A I went out of hearing of witnesses, but of course I was inside of the shade.
Q Did you stop at the place where you got up from when you were called? A No, sir, I went way back yonder by the side of a woman and she can tell you I didn't hear anything.
Q Where were you standing or sitting, or whatever you were doing when your name was called here to come and testify? A I was way back there. I can tell you where I was sitting. I can tell you.
Q I would like to know? A I can put you right to the place. I know the rules; I was sitting out of hearing and never heard a thing that was said here; that is right; of course, I wanted to sit in the shade.
Q Who was you sitting with, do you know? A I was sitting by the side of Buckner.
Q What Buckner? A George Buckner.

GEORGE BUCKNER, being sworn by Commissioner Needles, testified as follows:

Q What is your name? A George Buckner.
Q Do you know the witness here, Jack Landrum? A Yes, sir.
Q Where was he sitting during the examination of this case?
A Just at the very latter part of it he was sitting the second one from me. I was sitting near the north end of the second seat.
Q Did you hear any of the examination --what of the witnesses said?
A No, sir, I couldn't hear a thing.
Q Do you think he could hear? A No, sir, I don't think he could.
Q He was only there at the latter part of the examination?
A Yes, sir.
Q He had been in the back part before? A Yes, sir.

W. W. Hastings: He was sitting on the second seat behind the rope? A Yes, sir.

Mr. Smith of George Buckner: On what side of the tent?
A On the north side.
Q On what side of the tent is this where you are now standing?
A The south side.
Q He was on the opposite side of this tent where this testimony was being taken? A Yes, sir.

Commissioner: Mr. Witness, how far do you think it is he was?
A If I can step it, I think I will know.
Q Well step it? A About 31 feet.

W. W. Hastings: Did you step from where the witness was sitting or did you make angles? A I went around to the bench.

W. W. Hastings: The representatives of the Cherokee Nation ordinarily could not fell called upon to be technical, but they remember that in this special case they asked that these witnesses be put under the rule; this witness as he testified clearly understood that he should be put under the rule and he came back and the Commission itself ought to take notice of the fact, and as testified by the bailiff, within easy hearing of any witness upon this stand, and this testimony ought not to be allowed to be introduced.

Commissioner: Mr. Buckner, you say you heard none of this testimony? A No, sir.
Q And you were sitting aside of this man? A Yes, sir.

Commissioner: Go on with the witness:

Mr. Smith: State your name. A John Landrum.
Q What is your post office? A Hayden.
Q Where do you live? A I live on Lightning Creek, north of Hayden.
Q About how far north of Hayden? A About two miles.
Q Do you know this applicant, Katie Thornton? A Yes, sir.
Q How long have you known her? A About thirty years or more.
Q You didn't know her before the war? A No, sir, I didn't.
Q How far doe s she live from you? A She lived when she come from the north I reckon to my place--she located thereabout--close by me; I live east of her and she lives west of me.
Q Do you know who came there with her? A Yes, sir.
Q Who? A Thornton, her husband.
Q What was his name? A Henry.
Q What year was that? A That was in '66; in the fall, with others the latter part of winter kind of. It was in the winter.

W. W. Hastings: Where were you living at that time?
A I was living on Salt Creek where I am living now.
Q The same place? A Yes, sir, same place.
Q When did you move there? A In the fall of '66.
Q Had you buklt a house? A Yes, sir.
Q How far did she locate from you A About a mile I guess.
Q You didn't come up and testify for her five years ago?
A No, sir, I didn't; this is the first time.
Q Were you ever tried for anything in the Courts? A No, sir.
Q You never was up before any Court? A No, not since they killed my son. When they killed my son I had the case tried down here on Dog Creek.
Q They never tried you for anything? A No, sir, never was tried for anything.
Q How far did you live from this woman? A About one mile east of her.
Q How many children did she have when she came? A Two.
Q What were their names? A I can't remember the boy's name, and Maggie.
Q Was the other one her child? A Yes, sir, it was the baby.

Q It was a baby when she come there A Yes, sir, I know it, and I will swear and die on it.
Q Those were the only two children she had when she come there?
A Yes, sir.
Q And her husband? A Yes, sir.
Q You are positive? A Yes, sir, I am postiive, and I will die with it.
Q Are you a preacher? A No, sir.
Q How old are you? A I am 59 years old.
Q Do you know what year the war commenced? A Why, no, sir, I can't tell you.
Q Do you know what year the war closed? A No, sir, I don't know anything about that.
Q Do you know any year? A I know one year from another.
Q You know '66, don't you? A Yes, any of us ought to know that.
Q Di you ever hear of any other year besides that? A I have heard of lots of them.
Q What other year? A August and sepbember, July.
Q You heard of that year, have you? A Yes, sir.
Q Are those the only yea5s you heard of except '66? A No, sir, I heard of lot of them.
Q What other year have you heard of besides '66? A There is August, September, and there is May, April.
Q Those are years are they? A No, they are months.
Q What year have you ever heard of besides '66K A Now Mr. Hastings you ought not to ask me anything like that. I am not posted on anything of that kind.
Q Did these people come in a wagon? A Yes, sir.
Q They made a house down there, did they? A Yes, sir, they did.
Q Did you help build that house? A I helped to haul the logs.
Q And you didn't come and tell it for them five years ago?
A No, sir, I didn't.
Q Do you know when any ofne of her children were born after that?
A No, sir.
Q You don't know ~~when~~ any year since then? A No, sir, I couldn't tell you anything like that.
Q Have you got a child by the name of George A Yes, sir.
Q How old is George A George is 19.
Q You know what year he was born in? A No, sir, I couldn't tell you.
Q What is your next oldest child's name, next to George?
A Nancy.
Q Do you know what yeat she waw born in? A No, I couldn't tell you.
Q Do you know what year you was married in? A No, sir, don't ask me anything like that. I couldn't tell you anything like that because I can't. I couldn't tell the date.

Commissioner: You were a slave were you? A Yes, sir.
Q Did you ever go to school? A No, sir, I never did in my life.

LEWIS WHITMIRE, being sworn by Commissioner Needles, and examined by Mr. Smith, Attorney for applicant, testified as follows:

Q State your name? A Lewis Whitmire.
Q How old are you? A 58 years old.
Q Where do you live? A On Lightning Creek.
Q What is your post office? A Hayden.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life; never was out of the Cherokee Nation.
Q Are you on the roll of 1880? A Yes, sir.
Q Are you a Cherokee citizen? A Yes, sir.
Q Do you know this applicant, Katie Thornton? AA Yes, sir, I know her

Q How long have you known her? A Why I have knowed her ever since she was a young woman, in slavery tijes.
Q To whom did she belong? Was she a slave? A To Dr. Thornton; she was a slave under Dr. Thornton.
Q Who was Dr. Thornton's wife? A She was a Alberty; she was John Alberty's daughter.
Q With whom, if you know, was this woman, Katie, living at the time the war commenced? A She was living with Dr. Thornton and his wife when the war commenced.
Q When did you first see this applicant, Katie Thornton, after the war? A I saw her up here on Lightning Creek.
Q Well where was that, in the Cherokee Nation or Kansas?
A It was in the Cherokee Nation.
Q When was it, what year? A It was in the fall of '66.
Q Do you know where she lives now? A Well, yes, sir; I know where she lives; she lives on Big Creek now.
Q How far from you? A It must be 15 miles, I guess, amd may be more.
Q Where was she, at what point when you first saw her? A She was living on the place where Bill Madden is living now; her husband took a claim there.
Q How long did she live at that point, or in that immediate neighborhood? A I don't remember how long he lived there beofre he sold out there and went away.
Q Do you know whether she had any children or not in '66? A I think she had three children as near as I can recollect at that time.
Q Well do you know where they are now? A I don't know where the oldest is. No, sir, I don't.
Q Were these children boys or girls? A I do know the oldest child was a boy and he died in Tahlequah after she lived up there. I know about that because I was there a week when they buried him.
Q Do you know anything about the girls? A I don't know about the girls; they moved from there and went to Big Creek and lived there.
Q Do you know whether they were ever married or not? A No, sir, I don't.

W. W. Hastings: How much of a place did they make there, Lewis?

A They made a small place.
Q About how many acres? A I guess it must have been five or six acres they broke out.
Q How long did they live there? A Something over one year before he sold out.
Q Who did he sell to? A I think Harry Still bought the claim from him.
Q And they didn't sell to Madden then? A No, I think Harry Still sold to Madden.
Q '66 has been a long time ago? A Yes, it has been a long time ago
Q Are you willing to come to the stand and testify for people when they come in and out of the country 35 years ago? Are you willing?
A If I remember and know it, of course I am willing.
Q Did you testify for this woman five years ago, were you her witness five years ago? A I expect I was.
Q Do you know? A I don't know for certain, but I think I was.
Q AinSt your memery any better than that? A Why i remember that I witnessed for her once before this.
Q That was before the Kern-Clifton Court? A I think it was either the Kern-Clifton Court or the Wallace Court one.
Q You are not positive now are you? A Why I am positive that I witnessed at one of these courts.
Q You are not positive which Court? A No, sir.
Q Well how, how many children do you think she had when you first saw her there? A Why I don't remember weel how many children she had because I didn't go around them people much, but I knew the boy and the oldest girl was big enough to go to our subscription school.

Q You mean her oldest girl was old enough to go to your subscription school? A Her oldest boy and girl.
Q That was the first year after she come down there? A It was the first year and may be the second year, if I ain't mistaken.
Q How long did she live down there? A I told you how long she lived there as well as I recollect.
Q About how long then? A About two year.
Q That is your best judgment is it, Lewis? A Yes, sir.
Q And she had a boy and a girl that went to your school? A She had a boy and a girl to go to school, and they were close neighbors to the school there where they were camping.
Q Do you know what the boy's name was? A I most forgot that boy's name; he has been dead so long. I think thought his name was William.
Q Who taught that school? A I don't remember what person taught it; we had a subscription scholl though.
Q Where was the scholl located? A It was located right where we have a school house now.
Q What is known as the Hayden scholl house where we took the census five tears ago? A Yes, sir.
Q The same place? A Yes, sir, only it wasn't the same house.
Q It is a box house now? A Yes, sir.
Q That was a log house then? A Yes, sir.
Q You don't remember who taught it? A Not, sir, we had so many teachers there, until we got a teacher furnished from the Nation.
Q How is your recollection about dates, is it good? A No, sir, I don't know nothing about dates, less I go out and make a trade with some men and happen to give him an offer for it, and he will date it, and I bring it home, and I know I made a certain sale at a certain date. I don't date my business; I have no education.
Q Do you know years? A I know years: I know when Christmaw comes I know one year is gone.
Q That is all you know about it, is it? A Yes.

Case continued by Stenographer J. O. Rosson.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 10th day of July, 1901.

(Signed) T. B. Needles,
Commissioner.

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June 7th, 1901.

Continuation of application of Katie Thornton for the enrollment of herself and two children as Cherokee Freedmen: Former portion taken by stenographer E. G. Rothenberger.

KATIE THORNTON, the applicant, re-called, further testified: By W. W. Hastings, Cherokee Representative:

Q What was your next child born after Maggie? A Georgie.
Q Was it a girl or boy? A It is a boy and he is dead.
Q He is dead? A Yes, sir.
Q How much older was Maggie than George? A He is about two years old.
Q What was the next child of Georgie? A The next was Rutha.
Q How much older was Rutha than Georgie? A He was very near two years.

Q Did you ever have a child by the name of William? A Yes, sir, the oldest was named William.
Q Was he older than Maggie? A Yes, sir.
Q How long did you live on the Maddin place? A I could not tell you, I lived there some, very near four years; somewhere between four and five I could not tell you, I lived there a good little while
Q where did William die? A He died down at Tahlequah.

COM'R NEEDLES: Katie Thornton applies for the enrollment of herself and her two children, Millie and Emma. She cannot be identified upon the authenticated roll of 1880 or the census roll of 1896. She is duly identified upon the Kern-Clifton roll and wallace roll. Her two children are identified upon the Kern-Clifton roll. They make satisfactory proof as to residence and will now be listed for enrollment as Cherokee Freedmen on a doubtful card, and she will be duly notified by mail of the decision of the Commission when arrived at.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J: O. Rosson.

Subscribed and sworn to before me this 13th day of June, 1901.
(Signed) T. B. Needles,
Commissioner.

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J. O. Rosson, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and ecomplete copy of the original transcript of the testimony and proceedings in the above case.

J. O. Rosson

Subsdribed and sworn to before me this 21st of August, 1901.

Commissioner.

File with case of Joseph Thornton, et al., C.F.-D.#681.

Supl.C.F.-D.#678.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 26th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of KATIE THORNTON, ET AL., as Cherokee Freedmen, introduced on part of the Cherokee Nation:

Appearances:
Mellette & Smith, Attorneys for Applicants;
Mr. Hastings, of Counsel for Cherokee Nation.

W. A. JOHNSON, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation.

MR. HASTINGS: What is your name? A W. A. Johnson.
Q What is your age, Mr. Johnson? A 71 years.
Q What is your post office? A Garnett, Kansas.
Q How long has that been your post office? A Since '58.
Q Were you acquainted with a colored man by the name of Henry Thornton? A Yes, sir, I was.
Q Did you know his wife? A I knew he had a wife and knew her, but I don't know her first name.
Q I will ask you what was Henry Thornton's physical condition?
A He was a cripple, he walked with one crutch.
Q What was his occupation? A He was a shoemaker.
Q How long did you know him there in Garnett after the war?
A Five or six years.
Q About when did you first learn to know him? A I am not certain when I first knew him, it was '66 or '67, somewhere along there is when he first came there.
Q Do you remember about the time that the colored people were allowed to vote in Kansas? A Yes, sir.
Q About when was that? A I think it was in '70.
Q Do you know whether or not Henry Thornton was there at that time?
A He was there during the time we were holding an election to amend our Constitution with reference to the question of suffrage.
Q When was that? A That was in '68, and I think he remained there about two years after that.
Q Did you know anything about his family? A No, I did not, in particular, about them.
Q I believe you say he was a cripple? A Yes, sir.
Q Walked on a crutch? A Used a crutch in getting around.
MR. SMITH: Mr. Johnson, it was either in '66 or '67 that you first knew him? A Somewhere along there I would not be positive.
Q Might have been '68? A I think I knew him a li ttle earlier than '68.
Q But you can't be positive about that? A No, but I am positive about my knowledge of him in '68.
Q But both of them you are not positive? A Not when I fi rst knew him, he worked in the shoeshop there with Mr. Setters.
Q You don't know anything about his family? A I know he had a family.
Q How do you know that? A I have seen his family.
Q Upon how many occasions did you see him in '68, except the one you mentioned in your testimony in chief? A Why I evidently saw him every day.
Q You think that you saw him every day during the year 1868?
A During the time that I was around there.
Q Well, you think he was around town there every day you were?
A Why, I think so.

Q You don't know that? A I never missed him.
Q You don't know that? A No, of course; there is a fact that exists that I recollect certain about him being there in 1868.
Q Well, tell that? A From having him as a witness in a suit there between two of our citizens and the peculiarity of his testimony, of which I am positive.
Q What suit was that? A It was a suit between Henderson Cavinder and Sam Fullwinder.
Q Have you looked up the record to see when that was? A No, sir.
Q Do you know that occurred in 1868? A I know it occurred in '68 from the fact it was during the time we were discussing the question of amendments of our Constitution, from the conversation which took place between Cavinder and Henry Thornton.
Q You don't know whether the Katie Thornton who is an applicant in this case is in any way connected with the xxxxx you are talking about? A No, I do not.

Taking of testimony continued by stenographer Chas. von Weise.

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J. O. Reasor, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Reasor

Subscribed and sworn to before me this November 12th, 1901.

Commissioner.

( Continued from stenographer John D. Rosson, at Vinita, I.T. Oct. 26, 1901 )

WILLIAM RAY being first duly sworn by Com'r E. B. Meddlen, testified as follows for the Cherokee Nation

( By W. W. Hastings )

Q What is your name? A William Ray.
Q What is your age? A 65 past.
Q What is your post office address? A Garnett, Kansas.
Q How long have you lived in Garnett, Kansas? A Ever since '67 or '8.
Q I will ask you if you knew a colored man there by the name of Henry Thornton? A Yes sir.
Q In Garnett Kansas? A Yes sir.
Q Did you know his wife, Katie? A Yes sir.
Q Did he have any family then? A Yes sir.
Q Do you remember any of the names of the members of his family, the children ? A I dont recollect them at present , I dont know as I can call them.
Q What did Henry Thornton do? A He worked in a shoe shop.
Q Do you remember whose shoe shop it was he worked in? A Barney Setters if I am not mistaken.
Q Do you know when Henry Thornton and his wife Katie left there? A I know when they left ,it was in '71.
Q What day in '71? A The first day of March, if I am not mistaken and I know I am not.
Q You know you are not? A Yes sir.
Q Who left with them? A My Brother in law and sister.
Q Where did they go to? A They said they was coming to the Cherokee Nation.
Q Had you seen Henry Thornton, the husband of Katie, frequently while they were living there at Garnett, Kansas? A Yes sir.
Q How frequently did you see him? A Well, at that time I was in town doing work around there and I saw him passing the shop very frequently.
Q Did you ever miss him for any length of time until he left there? A No sir.
Q How long was it after you came there before you became acquainted with him? A I can't just tell exactly what time, somewhere in about 3 or 4 months, 5 or 6 anyway.
Q Short time after you come there? A Yes sir.

( By Smith )

Q What time did you come there in '68? A In June.
Q How long then was it before he became acquainted with this man? A I cant say the date, 3, 4 or 5 months after.
Q Might have been sooner than that? A Might have been sooner and it might have been longer.
Q Might have been longer than that? A Yes sir.
Q You had no acquaintance with him before that time? A No sir.
Q Where did you ever see this man's wife---first? A That is something I dont know as I can speak where I first saw her; they lived on 7th Street when I first knew them, as to the time and date I cant say.
Q 7th street in Garnett, Kansas? A Yes sir.
Q How large was Garnett then? A Oh a small place.
Q How many stores? A 3 or 4.
Q Do you mean to say that they had the streets numbered then? A I think not and cant they had numbered them, seems as if commenced at first Avenue and runs to 7th.
Q Do you know when they first commenced to number them? A No sir
Q You dont know if it was 7th street then or not? A It was on what they calls 7th street now.
Q You dont know where these people lived before you met them? A No sir, how could I?
Q You dont know if they were there all the time from the time you met them until they left do you? A No sir I cant say as to that, not all the time I cant.
Q You know that they left one time the first of March? A Yes sir

Q What makes you say it was the first of march? A Because I can prove it was the first of March.
Q How can you prove it? A I can prove it by identification; I dont know if the Colonel can recollect the date or not; if you want me to tell how I know it I will tell you.
Q I dont want to know how you can find it out at some other time, but how you know it now? A On or about two or three days before the first of March, John Tyler, my brother in law lived in the same block I did, Henry Thornton lived in the same block I did, and they both sold out on that day and fixed up their papers in Garnett and I can prove what I say; they sold to a man that lived in the same block, and I know I bid them good bye; my father started down here with them on the first day of March.
Q Have you examined the records since that time to find out when it was? A I dont know as I have, I looked up some back taxes once or twice and I found out it was a fact; I sometimes buy in property for taxes.
Q You just remember anyhow that it was the first of March? A I know it is a fact, Mr. Smith.

( By Hastings )

Q From the time you first knew him until he left you never missed him did you? A No sir I saw him every once in a while.
Q He owned property there did he? A He did.
Q And it was about that time that he sold it? A Ye sir.

HARRY STILL being first duly sworn by Com'r T. B. Needles, ~~testified as follows on the part of~~ is recalled by the Cherokee Nation for further cross-examination:

( By Mr. Hastings )

Q What was Katie Thornton's husband's name? A Henry.
Q What was Henry's occupation? A Farmer.
Q Was he a shoemaker? A Not as I know of.
Q Was he a cripple? A Yes sir.
Q Walked on a crutch? A Yes sir.
Q You never knew him in Garnett, Kansas? A No sir.
Q He was a cripple? A Yes sir.

= = = = = = = = =

This will be filed in the original application in Cherokee Freedmen Doubtful cases, D-578; D-579; D-580; D-581; D-582 and D-583.

*******

Chas. von Weise, being first duly sworn stabs hat as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

(Chas. von Weise)

Subscribed and sworn to before me this th 28th of October, 1901.

T. B. Needles Commissioner

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case # D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

**Joseph Thornton, D 581;**

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree, because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Hill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly stremuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

---

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

---

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

F.P.T.

In the matter of the application for the enrollment of Katie Thornton, et al. as Cherokee Freedmen, consolidating the applications of

| | | | |
|---|---|---|---|
| Katie Thornton, et al., | Cherokee | Freedmen | D 878 |
| Maggie Gurle, | " | " | D 880 |
| Joseph Thornton, et al., | " | " | D 881 |
| Eliza Thornton, et al., | " | " | D 882 |
| Lottie Lynch, et al., | " | " | D 883 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission:— by Katie Thornton for herself and her minor children, Millie and Emma Thornton; by Maggie Gurle for herself; by Joseph Thornton for himself and his minor child, Ethel Thornton, and subsequent to the date of his original application a birth affidavit showing the birth of James Alvon Thornton was filed and is made a part of the record herein; by Eliza Thornton for herself and her minor child, Bessie Williams, and by Lottie Lynch for herself and her minor children, Herbert Gurle and Sedalia Riley.

The evidence shows that the applicant Katie Thornton was the slave of a Cherokee citizen at the commencement of the rebellion, and that she was taken out of the Cherokee Nation during the rebellion. She states that she returned to said Nation in the fall of 1866, with Peter Keigs and family; but this Commission has found, in the case of Elizabeth Keigs, Cherokee Freedmen D 891, that though Peter Keigs, himself, returned to said Nation prior to January 19, 1867, he did not bring his family with him until a subsequent trip made in the spring of 1867. Hence, it appears that Katie Thornton, who came with said family, did not return to the Cherokee Nation until after January 19, 1867.

The evidence further shows that the applicants Millie, Emma, Joseph, Ethel, James Alvon and Eliza Thornton, Maggie Gurle, Bessie Williams, Lottie Lynch, Herbert Gurle and Sedalia Riley are the descendants of said Katie Thornton, born since the commencement of the rebellion, and have no rights as Cherokee Freedmen, except such as they may have acquired through her. None of the names of the applicants herein, are found on the 1880 authenticated Cherokee roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alven Thornton, Eliza Thornton, Bessie Williams, Lottie Lynch, Herbert Curls and Sedalia Riley as Cherokee Freedmen should be denied, under the provisions of section twenty-one of the act of Congress, approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.
Chairman.

T. B. Needles.
(SIGNED)
Commissioner.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
this MAR -5 19[illegible]

32 K0581

*IN RE*
*THE DEATH OF*

James Albert Thornton
*a citizen of the*

Cherokee *Nation.*

*Approved* Aug 21 *1903*

*Commissioner.*

# DEPARTMENT OF THE INTERIOR.

## COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the death of James Calvin Thornton
(Here insert name of deceased.)

a citizen of the Choctaw Nation, who formerly resided at or near
Hulbert
(Here insert name of postoffice.), Ind. Ter., and died on the 4th day of
Feb, 1903.

### AFFIDAVIT OF RELATIVE.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, }
Northern District. }

I, Joseph Thornton, on oath state that I am 27
years of age and a citizen, by adoption, of the Choctaw Nation;
that my post office address is Hulbert, Ind. Ter.; that I am
(Here insert name of post office.)
own the father of James Calvin Thornton
(State relationship as: the father; an uncle; a cousin, etc.) (Here insert name of deceased.)
who was a citizen, by adoption, of the Choctaw Nation;
and that said James Calvin Thornton died on the 4th day of
(Here insert name of deceased.)
Feb, 1903. Joseph Thornton

WITNESSED TO MARK:

(Must be Two Witnesses.) }

Subscribed and sworn to before me this 21st day of Feby 1903.

J Rosson
Notary Public.

### AFFIDAVIT OF ACQUAINTANCE.

UNITED STATES OF AMERICA, }
INDIAN TERRITORY, }
District. }

I, , on oath state that I am
years of age, and a citizen, by , of the Nation;
that my post office address is
(Here insert name of post office.) Ind. Ter.;
that I was personally acquainted with
(Here insert name of deceased.)
who was a citizen, by , of the Nation;
and that said died on the day of
(Here insert name of deceased.)
, 1 .

WITNESSED TO MARK:

(Must be Two Witnesses.) }

Subscribed and sworn to before me this day of 190

Notary Public.

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Joseph Thornton,
Hudson, I. T.
Cherokee P-D-581
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

J.D. 3-81

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 7 1901

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date JUN 7 - 1901

Post Office Hudson, I.T.

District COOWEESCOOWEE.

1. Name Joseph Thornton Age 75

Owner's name ..... Citizenship .....

Year R. R. Page 141 No. 3510 District COOWEESCOOWEE.

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

2. Name of wife ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

Names of Children:

3. Ethel Thornton Year ..... Page ..... No. ..... Dist. ..... 1/3

4. ..... Year ..... Page ..... No. ..... Dist. .....

5. ..... Year ..... Page ..... No. ..... Dist. .....

6. ..... Year ..... Page ..... No. ..... Dist. .....

7. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

10. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by No. 1 Stenographer J.O. Rosson

by R.C. well as Joe Thornton

on Wallace Roll P. 147 No 24268, 2000 Dist

Treaty of 1866

Represented by Mellette & Smith, Vinita I.T.

D

TD 581

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUN 26 1901

ACTING CHAIRMAN.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 26th, 1901.

Received of the Commission to the Five Civilized Tribes, one copy of the original testimony of June 7th, 1901, in the matter of the application of Joseph Thornton et al for enrollment as Freedmen of the Cherokee Nation.

Mellette & Smith

Attorneys for Applicants.

Cherokee F. #D581.

Cherokee Freedmen
D 581

Muskogee, Indian territory, March 21, 1904.

Joseph Thornton,

Hudson, Indian Territory,

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting, among others, your application for the enrollment of yourself and your two minor children, Ethel and James Alven Thornton, as Cherokee Freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Encl. V-56

Commissioner in Charge.

Registered.

Cherokee Freedmen
D 578, 580, 581,
582, 583.

Muskogee, Indian Territory, March 21, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alven Thornton, Eliza Thornton, Bessie Williams, Lottie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Enel. W-62

Cherokee Freedmen
D 572, 580, 581,
582, 583.

Muskogee, Indian Territory, March 21, 1904.

Edgar Smith,

Attorney for Katie Thornton, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alven Thornton, Eliza Thornton, Bessie Williams, Lottie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Encl. V-61

Registered.

Cherokee Freedmen
D 575, 580, 581,
582, 583.

Muskogee, Indian Territory, March 21, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Katie Thornton, et al., including the Commission's decision dated March 5, 1904, rejecting the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alven Thornton, Eliza Thornton, Bessie Williams, Lettie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen.

Respectfully,

Tams Needles

Commissioner in Charge.

Encl. V-63

Through the

Commissioner of Indian Affairs.

Cherokee Freedmen,
2-Enl.

Muskogee, Indian Territory, June 16, 1904.

Joseph Thornton,
Keeper, Indian Territory.

Dear Sir:

You are hereby advised that the Commissioner's decision, dated March 2, 1904, rejecting, among others, your application for the enrollment of yourself and your two minor children, Ethel and Vance Alvin Thornton, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 11, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen,
[illegible],
102 & 103.

Muskogee, Indian Territory, June 29, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie, Millie, Emma, Joseph, Ethel, James Alven, and Eliza Thornton; Maggie and Herbert Curle; Bessie Williams; Lottie Lynch; and Sedalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen,
D-378, 380, 381,
382 & 385.

Muskogee, Indian Territory, June 29, 1904.

Edgar Smith,

Attorney for Katie Thornton et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie, Willie, Emma, Joseph, Ethel, James Alven and Eliza Thornton, Maggie and Herbert Curls, Bessie Williams, Lottie Lynch and Sedalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, February, 13, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith a motion filed June 11, 1906, by Starr & Patten, Vinita, Indian Territory, for a rehearing of the consolidated Cherokee freedmen case of Katie Thornton et.al. The reply of the Attorney for the Cherokee Nation to this motion, filed July 5, 1906, is also enclosed. July 21, 1906, there was filed by attorneys for [redacted] an amended motion for rehearing.

The decision of the Commissioner to the Five Civilized Tribes dated March 8, 1904, rejecting the application for the enrollment of the applicants embraced in the consolidated Cherokee freedmen case of Katie Thornton et.al. was affirmed by the Department June 21, 1904 (I.T.D. 4736-1904).

Unquestionably the motion for a rehearing of this case is without merit.

Attached to the motion for rehearing is what purports to be sworn statements by J. M. Thornton, who states that he was living in Andersen County [redacted], in the year 1866; that he knew Henry Thornton; that Henry Thornton and his wife separated, and that his wife "came to the Cherokee Nation, Indian Territory, in the fall of 1866." It is also supported by the affidavits of

Leander, Joe, and Tobias Bean.

Attached to the amended motion for rehearing are affidavits by Betsy Whitmire, Eliza Whitmire, Tobias Bean and Arthur Bean, all of whom sign by mark, and the affidavit of said J. M. Johnston.

J. M. Johnston, whose postoffice address is Garnett, Kansas has testified for Starr & Patten in several Cherokee freedmen cases, as have Betsy Whitmire and Eliza Whitmire. The other parties to the affidavits in support of this motion have testified in practically every Cherokee freedman case tried before the Commissioner in the last eighteen months, in which Messrs. Starr & Patten have appeared as attorneys.

The statements contained in the affidavits are general, and merely state that Katie Thornton returned to the Cherokee Nation and established a residence therein in 1866.

Katie Thornton swore that she returned to the Cherokee Nation after the war of the rebellion, with her husband, Henry Thornton. The Cherokee Nation introduced W. A. Johnson, of Garnett Kansas, who swore that he became acquainted with Henry Thornton in 1866 or 1867, and that he continued to reside in Kansas until about 1870, and also William Ray of Garnett Kansas, who swore that Henry Thornton and his wife left the state of Kansas, in company with his brother-in-law and sister, on the first day of March, 1871. It will be seen that the statement in the affidavit of J. M. Johnston to the effect that Henry Thornton and his wife separated, and that his wife came to the Cherokee Nation in 1866, is directly contradictory to the sworn statement

Secretary-3

of Katie Thornton herself.

There is nothing to show that the evidence now sought to be be introduced is newly discovered, or that with due diligence the same could not have been secured when the case was heard before the Commissioner nor is there anything to show that the motion is not made for the purpose of delay. Following the rulings of the Department of September 26, 1906 (I.T.D. 18464-1906-1906), in the Cherokee freedman case of Jennie Martin et. al and of March 24, 1906, (I.T.D. 2758-1905, 6206-1905), in the Cherokee freedman case of Ann Johnson et. al., itis respectfully recommended that the motion be denied.

Respectfully,

Through the

Commissioner of Indian Affairs.

Commissioner.

Encl. B-15

L M B

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND.
15621-1907
16332- "

(COPY)

February 27, 1907.

The Honorable,

The Secretary of the Interior,

Sir:

Referring to Departmental letter of February 13, 1907, denying motion for review of Departmental decision of August 2, 1905, in Cherokee freedmen case of Katie Thornton, et al., I have the honor to transmit herewith a communication from Commissioner Bixby, dated February 13, 1907, enclosing motion filed June 11, 1906, by Starr & Patten, Vinita, I. T., for a rehearing of the consolidated Cherokee freedmen case of Katie Thornton, et al.

This motion is wholly without merit, as there is nothing to show that the evidence now sought to be introduced is in any way newly discovered or that with due diligence it could not have been secured when the case was heard before the Commission originally, nor is there any showing made that the motion was not for the purpose of delay. It is recommended that it be denied.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee

Acting Commissioner.

EWE--SD.

COPY

DEPARTMENT OF THE INTERIOR, W.H.M.

D.C.12667-1907. WASHINGTON. C.R.W.

I.T.D.5738-1907.

L.R.S. March 2, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

February 27, 1907 (Land 16332), the Indian Office transmitted your report of February 13, 1907, forwarding a motion for review in the Cherokee freedmen case of Katie Thornton, et al., and concurred in your recommendation that the motion be denied.

The Department also concurs in your recommendation, and the motion is accordingly denied.

A copy of Indian Office letter is enclosed for your information. All the other papers in the case have been returned for the files of the Indian Office, together with a carbon copy hereof.

Respectfully,

Jesse E. Wilson

Assistant Secretary.

1 enclosure, and
7 enclosures to Ind. Of.,
with copy hereof.

A.F.Mc
3-207.

Cherokee T. R.
412

Muskogee, Indian Territory, April 1, 1907.

Joseph Thornton,
Hudson, Indian Territory.

Dear Sir:

You are hereby advised that the motion for a re-hearing filed June 11, 1906, by your attorneys, Starr & Patten, Vinita, Indian Territory, in the matter of the application for the enrollment of yourself and minor children as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

Respectfully,

Commissioner.

RPI

Cherokee F.R.
410 et al.

Muskogee, Indian Territory, April 1, 1907.

Starr & Patten,

Attorneys for Katie Thornton, et al.

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motion filed for a rehearing by you June 11, 1906, in the matter of the application for the enrollment of Katie Thornton, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Geo. D. Roa[illegible]

Commissioner.

Enc I-3

RPI

Cherokee T.M.
410

Muskogee, Indian Territory, April 1, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motion for a re-hearing filed June 11, 1906, by Starr & Patton, Attorneys, Vinita, Indian Territory, in the matter of the application for the enrollment of Katie Thornton, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Enc 1-2.
WFC

Cherokee P.R.
410

Muskogee, Indian Territory, April 1, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motion for a re-hearing filed June 11, 1906, by Starr & Patton, Attorneys, Vinita, Indian Territory, in the matter of the application for the enrollment of Katie Thornton, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Geo. D. Rodgers
Commissioner.

Enc 1-2.
KPI

Cher. Fr. R. 413

See Cher. Fr. D 579
R 410 - 411 - 412

Cher. Fr. R. 413

To be filed with case of Eliza Thornton, C. F. D.#582.

DEPARTMENT OF THE INTERIOR/
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., JUNE 7, 1901.

In the matter of the application of Katie Thornton for the enrollment of herself and two children as Cherokee Freedmen; she being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Mellette & Smith, for Applicants;
W. W. Hastings, for Cherokee Nation.

Q What is your name? A Katie Thornton.
Q How old are you, Katie? A I just really don't know, but they guessed at it before and they thought I was 65 in the other court.
Q About five years ago? A Yes, sir.
Q That will make you about seventy now? A Yes, sir, I gues so.
Q What is your post office? A Hudson.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they under age and unmarried? A They are unmarried. I have two to enroll.
Q Are they under age? A Yes, sir.
Q What are their names? A Maggie Curls.
Q Is she married? A Yes, sir.
Q Are these children all married? A Yes, sir, all married but two. The youngest one is Millie Thornton.
Q How old is Millie? A She is 19.
Q The name of the next child? A Emma Thornton.
Q How old is Emma? A 17.
Q Is your name on the roll of 1880? A No, sir.
Q Did you draw what is known as the strip money? A Yes, sir, I drawed strip money and Wallace money too.
Q ~~Husb~~ Are you married now? A No, sir, my husband is dead.
Q What was his name? A Henry Thornton.
Q Is he living? A No, sir.

The 1880 authenticated roll and the 1896 census roll examined and the names of the applicants not found thereon.
The Kern-Clifton Roll examined and the names of the applicants are found thereon as follows:
Page 141, No. 3509, Katie Thornton, Cooweescoowee Dist.
Page 141, No. 3512, Millie Throtnon, Cooweescoowee Dist.
Page 141, No. 3513, Emma Thornton, Cooweescoowee Dist.
The Wallace roll examined and the name of the applicant is found on page 195, No. 3549, Katie Thornton, no district.

Q Have you got any witnesses, Katie? A Yes, sir.
Q Who are they? A Harry Still, Jack Landrum, Frank Ross, and Lewis Whitmire.
Q Katie were you a slave? A Yes, sir.
Q To whom did you belong? A John Thornton.
Q Was he a Cherokee citizen? A Yes, sir, Cherokee citizen.
Q An Indian. A Yes, sir.
Q Were you taken out of the Nation during the war? A Yes, sir.
Q Where to? A We went to Fort Scott.
Q Fort Scott, Kansas? A Yes, sir.
Q Who did you go with? A We went out with the people that lived with Thornton, with Jannie Thornton.
Q Went out with Thornton's slaves? A Yes, sir.
Q When did you come back? A Come back in '66.

Q Did you say you come back in '66? A Yes, sir.
Q Where have you lived since that time? A I lived on Lightning Creek first.
Q Have you always lived in the Cherokee Nation since you come back?
A Yes, sir, never been no place else since I come back.
Q Where were y ur children, Millie and Emma born? A In the Nation.
Q Cherokee Nation? A Yes, sir.
Q Have you lived in the Cherokee Nation ever since they were born?
A Yes, sir, them two live with me.
Q Your husband's name was Henry Throtman? A Yes, sir.
Q How long has he been dead? A He has been dead, this May past, six years.
Q Have you married since? A No, sir, never married since.
Q Was he your first husband? A Yes, sir, he was my first husband.
Q He is the father of Millie and Emma? A Yes, sir.
Q Was he a Cherokee Freedman? A Yes, sir.
Q Who did he belong to? A He belonged to John Thornton.
Q Were you married to him before the war? A Yes, sir, way before the war.
Q Did he go with you when you went out? A We went out together.
Q Did you return together? A Yes sir, both come back together.
W. W. Hastings: Did your husband join the army the time of the war? A Yes.
Q He was in the army until the war closed? A No, sir, he got hurt and he come home; he went out to chop some wood and he hurt his knee and he couldn't walk so they sent him home.
Q When did he come home? A He came home before the soldiers left Fort Scott.
Q About how long before the war closed? A They hadn't started out; they hadn't left Fort Scott.
Q And he remained there at Fort Scott afterwards? A No, sir, we moved afterwards to Garnett with my mother, and after he got crippled I went there for protection, for them to help me.
Q What was your mother's name? A Lydia Ross; she belonged to Lewis Ross.
Q Did you stay in Kansas until after the war closed? A No, I come back in '66.
Q Well the war was over? A Yes, it was over then.
Q What is your oldest child's name? A Maggie Curls.
Q How old is she? A She is somewhere about 36 years old, as near as I can remember.
Q Where was she born? A She was born in Kansas, Maggie was.
Q About how old was she when she come to this country?
A Somewhere near one year old.
Q What time in the year did you come here? A I come down here in the fall, in September, along in September.
Q Are you positive about that? A Yes, I am.
Q Who come with you? A I come along with Peter Meigs then after they had gone after their family.
Q They had been here? A Yes, sir, and come back.
Q Did your husband come with you? A Yes, sir, we all come together.
Q Who else come besides Peter Meigs? A We were the last ones that started. There were three families.
Q Name them? A Peter Meigs, Caesar Smith, David Hayes; there was a lot of them in ahead of us, and we didn't get together; they lived in different places.
Q Did you start from Garnett? A I did; the others didn't live there; we got together on the road.
Q Was David Meigs along? A Yup, sir, he was along; Uncle Pete and them had been here and went back after their families.
Q Are you certain that David Meigs' wife and family was along?
A Yes, sir.

Q Where did you come to down here? A We come to Big Creek, down there where they all lived, and stopped there and camped; we stayed there I believe one and a half days.
Q Then where did you go? A Nowhere; I live down to Lightning Creek.
Q Was Madden living there? A No, we made the place.
Q The place that Madden is living on now? A Yes, sir; that is the first place I stopped to locate.
Q With the exception of a day or two you came directly to Madden's place? A No, I went to Mose Whitmire's a few days. We stayed a day or two, and when I left there I come over to where we live.
Q Where you live now? A No, to where Madden lived.
Q How far does Madden live from Hayden? A I don't know; I guess about three-quarters of a mile.
Q What direction? A End of south.
Q Was there any house there then on the Maden place, the place that you made? A No, there wasn't no house until we built it.
Q Built it that fall? A Yes, sir.
Q Same fall you come? A Yes, sir, the same fall we come.
Q Who helped your husband to build it? A Lewis Right, Nels. Wroght, Aaron and Mose whitmire and Ransom Woodall; about one dozen or fifteen men.
Q Did you know any Cherokees living in that country then?
A No, sir, never saw any then.
Q Where did you get anything to eat? A When we wanted anything, a man had to go into the states; they were gone sometimes several days. I think they went in the States somewhere to get it.
Q Was Aaron Whitmire--did he have a field then? A No, they didn't have time to have no field; he just come in then.
Q Did he have a house? A He had some houses up.
Q Did you see Harry Still down there then? A I didn't see him when I first come.
Q How long after you first come was it? A I don't know how long it was before I saw Harry, but I saw his mother.
Q About how long afterwards? A I don't know; I never kept any account of it; I saw Harry but I don't know when.
Q Where was Harry living? A He said he come from his mother.
Q Where did she live? A She lived up on the prairie, on the hill from Hayden.
Q About how far from Hayden? A I couldn't tell; two miles or one--and a half miles.
Q Was she living in a house then? A She was living in a house there then.
Q Who was living with her? A This man Hayden.
Q About how far were they living from you? A I guess somwhere about two miles I guess.
Q In the same neighborhood? A All in the same neighborhood.
Q You knew her did you? A Yes, sir.
Q Did you know her before? A I knowed her before the war.
Q And you got acquainted with her directly after you e ome down there? A Yes, sir, all old acquaintances and we met each other.
Q Her name was Hayden then? A Not before the war; since the war it was.
Q Her husband was living with her then? A Yes, sir.
Q In the fall of '66? A Yes, sir.
Q You are positive about that? A Why of course I am.
Q They were living within two miles of you? A Yes, I guess it was, but I am not much of a judge in that.
Q Where was Hays Whitmire living then? A He lived right in front of me, not more than half a mile. He lived in front down the hill, and I lived on the hill; he lived in front of me.
Q Did he have a field then? A No, he didn't have no field.

Q Did he have any corn? A No, he didn't have no corn; he had a little there, I don't know where he got that.
Q You just made that place on the public domain? A Yes, sir, I made mine on the public domain.
Q Where did you live before the war? A I lived at John Thornton's.
Q In what part of the Nation was that? A It is a queer name, but I can call the name.
Q What town is near there now? A There was no town there.
Q I mean now where Thornton lived? A I haven't been back there since I left. I don't know; I will think of the place directly.
Q Was it Tahlequah, or Flint, Goingsnake? A It was Goingsnake we lived.
Q How far did you live from Lewis Whitmire? A I think it was about three miles. I think it was about that far. I knew where they lived.
Q You and your husband come back down here together? A Yes, sir, both come together.
Q Did you come in a wagon? A Yes, sir.
Q Did you pass through any town from Fort Scott? A We didn't come from Fort Scott.
Q I mean Garnett? A We come through several little stations.
Q What stations? A I can't remember but one, and I don't remember whether I can remember that; I can't call the name; it has been so long, I got the name; we came thorugh several stations; I can't think of them.
Q Do you think you came through Chetopa? A No, we didn't come through Chetopa.
Q Did you come through Coffeyville? A We come through Pompkin, where old Parker used to be; that is the way I came.
Q Do you know Henry Armstrong that lived by Coody's Bluff? A No, sir.
Q Do you know Cal. Coker? A No, sir, I don't know him either.
Q Was there any Delaware Indians living up there when you come? A No, sir, I never saw them.
Q Have you seen any since? A Since then I have seen Delaware Indians time and again, and I see them every once in a while yet.
Q Did you have any witnesses before the Court before? A Yes, sir, I had just one.
Q Which one? A Old man Peter Meigs.

HARRY STILL, being sworn by Commissioner Needles and examined by Mr. Smith, Applicant's Attorney, testified as follows:

Q State your name. A Harry Still.
Q Where do you live? A Hayden.
Q How long have you lived in the Cherokee Nation? A All my life, 54 years.
Q Do you know this applicant, Katie Thornton? A Yes, sir.
Q How long have you known her? A I knowed her ever since I was a little fellow.
Q Was she born a slave? A Yes, sir.
Q Do you know who she belonged to before the war? A TO Thornton.
Q What Thornton was that? A We called him Dog, Thornton.
Q Was he a citizen of the Cherokee Nation? A Yes, sir. I don't know whether she belonged to him or his wife. I know she belonged in the Thornton family.
Q Do you know what Thornton's wife's name was before she married? A Frankie Thornton they called her.
Q Were they citizens of the Cherokee Nation? A Yes, sir.
Q Where did they live before the war? A I think they lived in Goingsnake.
Q Did you see this woman, Katie Thornton, in the Cherokee Nation after the war? A Yes, sir.
Q When did you first see her? A In the fall of '65.

Q Where? A On Lightning Creek she settled a place known now as Bill Madden place. Bill Madden lives on her old place.
Q Was there any other members of her family with her, or was she by herself? A She had Henry, her husband; Maggie, she had two or three children and a step-son. I forget his name; he is dead. She had several children.
Q What is her husband's name? A Henryp he was a crippled man.
Q Do you know where this woman, Katie Thornton, has been living since that time? A Yes, sir.
Q Where? A On Big Creek.
Q Do you know whether she has been living there continuously or not? A Yes, sir.
Q Has she? A Yes, sir, when she left Lightning Creek she went to Big Creek and stopped, and has benthere ever since.
Q Has she any goraw children who are married? A Yes, sir.
Q Who are they? A Maggie.
Q Who is Maggie married to? A Julius Curls. That is her oldest girl. She has one that married Jesse Riley. I don't know her name, and she has a boy named Joe. She has several children.
Q Where does Jesse Riley's wife live? A Right across that hill there / (Indicating.)
Q How far from Chelsea? A I expect it is three miles or four.
Q Who does she live with? A Her husband.
Q What is his name? A Jesse Riley.
Q Where does Maggie Curls live? A She lives right at the foot of that hill there? (Indicating.)
Q How far from Chelsea? A About two and a half or three miles.
Q Who does she live with? A Her husband.
Q Do you know where Joe Thornton lives? A Yes, sir.
Q Is he married? A Yes, sir.
Q Where does he live? A On Big Creek.
Q How long has he been there? A Ever since his mother left for Big Creek.
Q How long did you say that Joe Thornton had been living in the Cherokee Nation? A Ever since his father and mother moved to Lightning Creek. He never was out except across the line and then back home.
Q When did his mother move to Lightning Creek? A In the fall of '65; sometime in December. I think.
Q Do you know when Katie's daughter, who is now married to Jesse Riley, do you know how long she has been married? A No, sir, I don't know how long Maggie has been married. I don't know anything about the marriages. I know she is married. I know she lives in Vinita a while. I know she is married to Julius Curls, but don't know anything about her marriage, where she married.

Q. E. Hastings: How old are you? A About 54 years old.
Q You were about 18 years old when the war closed? A Yes, I reckon so. I might have been; I am about 54 years old now.
Q You are certain you saw this woman? A Yes, sir.
Q You are positive about that? A Yes, I am positive. I have circumstances that make it positive.
Q You were living with your mother? A Yes, sir.
Q On a place that you had made? A Yes, sir.
Q You weren't living with Aaron Wright? A No, sir.
Q Mr. Hayden was living with your mother at that time? A No, sir.
Q Wasn't Mr. Hayden and his wife, who was your mother, living about two miles from this woman? A Yes, sir.
Q Was Mrs. Hayden there? A No, sir, Mr. Hayden wasn't there.
Q How many children did she have when you first saw her there?
A She had three or four children.
Q Name them? A Maggie, and Jesse's wife, I don't know her name, and Joe and a step-boy, I forget his name.

Q You remember of seeing those four? A Yes, sir, she had those four.
Q And they were there in the fall of '66? A Yes, sir.
Q Did you testify for her five years ago that she came back in the fall of '66? A No, sir.
Q You didn't say anything then about seeing her? A Yes, sir, I said something about seeing her, and Albert Morris said she come to Big Creek in '66, and you remember it.
Q You didn't go on the stand then? A No, sir.
Q You didn't witness for her? A No, sir.
Q You were living over there two miles from her? A Yes, sir.
Q And you saw rebuttal testimony go in against her did you?
A No, sir, I didn't see any go in against her.
Q You didn't hear it? A No, sir.
Q I thought you said you was present when Albert Morris testified?
A I said I was talking down stairs with Albert Morris and you were there.
Q You didn't come up and witness for her? A No, sir.
Q She made the Madden place, did she? A Yes, sir.

Mr. Smith: How long was it before Mr. Hayden come down? A It was perhaps about six months before Mr. Hayden ever come to the Cherokee Nation, and he didn't stay no time then, he went back.
Q He himself was not there at the time you were speaking about?
A No, sir.
Q Where was Mrs. Hayden? A She was there on Lightning Creek, my mother was.
Q Is Mrs. Hayden your mother? A Yes, sir.
Q How old were these children, Jesse Riley's wife and Maggie, who is now Maggie Curls, in 1866? A They were tolerably good size girls.
Q About how old? A I don't know how old they were. Maggie was a good size girl; I remember her and I remember the step-boy; the others I don't remember much about them, but I knew Henry then and have knowed them all my life, but I never paid any attention to the children.

W. W. Hastings: How old do you think Maggie was when you first saw her? A I never paid no attention, but I know she was with her mother.

Commissioner: you say Hayden wasn't there? A No, sir, he wasn't there.
Q Would he come backwards and forwards occasionally? A Yes, sir, he would come backward and forward occasionally.

W. W. Hastings: About how often did he come back? A I guess he come back two or three times before he come back to stay.
Q You testified that you bought that place from Sam Brad?
A Yes, sir.
Q When did you buy it? A '72 or '3.
Q Did Hayden ever live down there before that time? A No, sir, my mother was there.
Q Mrs. Hayden lived up with Hayden in Kansas? A No, sir, she never did.
Q She lived right down there, did she? A Yes, sir, right where I brought her.
Q On the first place she made? A Yes, sir.
Q She lived there for seven years? A Yes, sir.

FRANK ROSS, being sworn by Commissioner Needles and examined by Mr. Smith, Attorney for Applicant, testified as follows:

Q State your name? A Frank Ross.
Q Where do you live? A I live on Lightning Creek.
Q What is your post office? A Hayden.

Q .How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant here, Katie Thornton? A Yes, sir.
Q How long have you known her? A All my life.
Commissioner: Well how old are you? A 53.
Mr. Smith: Do you know whether she was a slave or not?
A Yes, sir, I do.
Q Was she? A Yes, sir.
Q Whose slave?w A She belonged to Lewis Ross' daughter, Minta Vann.
Q Was she an Indian? A Yes, sir.
Q Cherokee Indian? A Yes.
Q Where did she live before the war? A She lived down close to Tahlequah.
Q Do you know whether Katie Thornton here was ever out of the Cherokee Nation, or what became of her during the war? A She went to Kansas during the war.
Q When did you first see her back in the Cherokee Nation after the war? A I saw her back in '66 on Lightning Creek; in the winter of '66 on the place where Bill Madden is living at now she was living.
Q Do you know where she has been living since that time? A She is living on Big Creek. After she moved from there, she moved to Big Creek.
Q Has she lived in the Cherokee Nation continuously since that time?
A As far as I know, she has; I never heard of her being our.
Q Do you know her children? A I know them when I see them. I am not acquainted with them. I am acquainted with one of them, the oldest girl, Maggie.
Q Is she married or single? A She is married.
Q To whom is she married? A Julius Curls.
Q Do you know any other of the older children over 21? A No, sir, I am not well acquainted with them. I know them when I see them; she had a boy by the name of Billy, but he is dead.
Q Any other boys that you know? A No, sir, not that I know of.
Q Are you acquqintd with any other of her girls? A Jesse Riley Riley has one of her girls, but I don't remember her name.
W. W. Hastings: Where were you living after the war? A Living on Price Creek.
Q Below here? A Yes, sir, below here.
Q This woman wasliving above you? A She was living on Lightning Creek; that is above me and way above me.
Q How far? A It must be 22 or three miles.
Q Did you testify for her five years ago? A No.
Q You weren't a witness for her then? A No, I wasn't; I knowed her alright, but I wasn't a witness for her.
Q Did you see her husband in '66? A Henry, yes, sir, I saw him.
Q Where were they living then? A Where Bill Madden is living now
Q What time in '66? A Along in the winter a little before Christmas.
Q Did they have a house up there? A They were fixing to build a house; they didn't have one then; I didn't see any; they were fixing to build one.
Q Well, were they in tents? A Yes, they were in a tent.
Q On the Madden place? A Right where the Madden place is now. Maddens are living in that house now.
Q Did you see any children with them? A I seen a boy, Billy, and a little girl.
Q Is that all? A That is all I noticed; I don't remember of any more.
Q How long did you stay there at that time? A Four or five days.
Q With them? A No, I was there in the naighborhood with Nelson and Mose.
Q Do you undertake to say you remember of seeing people 35 years ago and remember the exact dates? A Yes, sir.
Q Are you willing to swear to it? A Yes, sir.

JACK LANDRUM, being swor. by Commissioner Needles, testi fied:

W. W. Hastings: Comes now the representative of the Cherokee Nation and protests against the introduction of this witness for the reason that he was called and sworn and put under the rule which has been explained to all these colored people for the past week or ten days, if not longer, and this witness got up from the second bench from behind the rope in the crowd and was present during the taking of the testimony of the preceding witness, and was pretty near enough to hear the inquiries and answers made.

Mr. Smith: If the Court please, I don't know who was called and sworn.

W. W. Hastings: And the bailiff being asked by the Commissioner where he was, and he answered second seat.

Commissioner: Well you are under oath. Did you hear any part of the testimony that was given here in this case? A No, sir, I didn't.

Q Where were you during the examination of these witnesses?
A I was way back yonder, and I can prove it.
Q Weren't you on the second bench here? A No, sir, I can prove that I wasn't.
Q Who can you prove it by? A By all the folks that are sitting back there.
Q Are you hard of hearing anyhow? A I can't hear very good.

Mr. Smith: Where were you when sworn and put under the rule where did you go? A I went back there.

Q I don't know where you went to. Who was sworn with you?
A Harry Still and Frank Ross.
Q Well where did you goWhen you were told to go out of hearing of the witnesses? A I went out of hearing of witnesses, but of course I was inside of the shade.
Q Did you stop at the place where you got up from when you were called? A No, sir, I went way back younder by the side of a woman and she can tell you I didn't hear anything.
Q Where were you standing or sitting, or whatever you were doing when your name was called here to come and testify? A I was way back there. I can tell you where I was sitting. I can tell you.
Q I would like to know? A I can put you right to the place. I know the rules; I was sitting out of hearing and never heard a thing that was said here; that is right; of course, I wanted to sit in the shade.
Q Who was you sitting with, do you know? A I was sitting by the side of Buckner.
Q What Buckner? A George Buckner.

GEORGE BUCKNER, being s orn by Commissioner Needles, testified as follows:

Q What is your name? A George Buckner.
Q Do you know the witness here, Jack Landrum? A Yes, sir.
Q Where was he sitting during the examination of this case?
A Just at the very latter part of it he was sitting the second one from me. I was sitting near the north end of the second seat.
Q Did you hear any of the examination --what of the witnesses said?
A No, sir, I couldn't hear a thing.
Q Do you think he could hear? A No, sir, I don't think he could.
Q He was only there at the latter part of the examination?
A Yes, sir.
Q He had been in the back part before? A Yes, sir.

W. W. Hastings: He was sitting on the second seat behind the rope? A Yes, sir.

Mr. Smith of George Buckner: On what side of the tent?
A On the north side.
Q On what side of the tent is this where you are now standing?
A The south side.
Q He was on the opposite side of this tent where this testimony was being taken? A Yes, sir.

Commissioner: Mr. Witness, how far do you think it is he was?
A If I can step it, I think I will know.
Q Well step it? A About 21 feet.

W. W. Hastings: Did you step from where the witness was sitting or did you make angles? A I went around to the bench.

W. W. Hastings: The representatives of the Cherokee Nation ordinarily would not feel called upon to be technical, but they remember that in this special case they asked that these witnesses be put under the rule; this witness as he testified clearly understood that he should be put under the rule and he came back and the Commission itself might to take notice of the fact, and as testified by the bailiff, within easy hearing of any witness upon this stand, and this testimony ought not to be allowed to be introduced.

Commissioner: Mr. Buckner, you say you heard none of this testimony? A No, sir.
Q And you were sitting aside of this man? A Yes, sir.

Commissioner: Go on with the witness:

Mr. Smith: State your name. A John Landrum.
Q What is your post office? A Hayden.
Q Where do you live? A I live on Lightning Creek, north of Hayden.
Q About how far north of Hayden? A About two miles.
Q Do you know this applicant, Katie Thornton? A Yes, sir.
Q How long have you known her? A About thirty years or more.
Q You didn't know her before the war? A No, sir, I didn't.
Q How far does she live from you? A She lived when she come from the north I reckon to my place--she located thereabout--close by me; I live east of her and she lives west of me.
Q Do you know who came there with her? A Yes, sir.
Q Who? A Thornton, her husband.
Q What was his name? A Henry.
Q What year was that? A That was in '66; in the fall, with others the latter part of winter kind of. It was in the winter.

W. W. Hastings: Where were you living at that time?
A I was living on Salt Creek where I am living now.
Q The same place? A Yes, sir, same place.
Q When did you move there? A In the fall of '66.
Q Had you built a house? A Yes, sir.
Q How far did she locate from you? A About a mile I guess.
Q You didn't come up and testify for her five years ago?
A No, sir, I didn't; this is the first time.
Q Were you ever tried for anything in the Courts? A No, sir.
Q You never was up before any Court? A No, not since they killed my son. When they killed my son I had the case tried down here on Dog Creek.
Q They never tried you for anything? A No, sir, never was tried for anything.
Q How far did you live from this woman? A [illegible] east of her.
Q How many children did she have that year? A Two.
Q What were their names? A I don't remember the boy's name, and Margie.
Q You the other one was married? A Yes, sir, it was the boy.

Q It was a baby when she come there A Yes, sir, I know it, and I will swear and die on it.
Q Those were the only two children she had when she come there?
A Yes, sir.
Q And her husband? A Yes, sir.
Q You are positive? A Yes, sir, I am postiive, and I will die with it.
Q Are you a preacher? A No, sir.
Q How old are you? A I am 59 years old.
Q Do you know what year the war commenced? A Why, no, sir, I can't tell you.
Q Do you know what year the war closed? A No, sir, I don't know anything about that.
Q Do you know any year? A I know one year from another.
Q You know '66, don't you? A Yes, any of us ought to know that.
Q Di you ever hear of any other year besides that? A I have heard of lots of them.
Q What other year? A August and sepbember, July.
Q You heard of that ye[illegible], have you? A Yes, sir.
Q Are those the only yeabs you heard of except '66? A No, sir, I heard of lot of them.
Q What other year have you heard of besides '66? A There is August, September, and there is May, April.
Q Those are years are they? A No, they are months.
Q What year have you ever heard of besides '66K A Now Mr. Hastings you ought not to ask me anything like that. I am not posted on anything of that kind.
Q Did these people come in a wagon? A Yes, sir.
Q They made a house down there, did they? A Yes, sir, they did.
Q Did you help build that house? A I helped to haul the logs.
Q And you didn't come and tell it for them five years ago?
A No, sir, I didn't.
Q Do you know when any ofne of her children were born after that?
A No, sir.
Q You don't know any year since then? A No, sir, I couldn't tell you anything like that.
Q Have you got a child by the name of George? A Yes, sir.
Q How old is George? A George is 19.
Q You know what year he was born in? A No, sir, I couldn't tell you.
Q What is your next oldest child's name, next to George?
A Nancy.
Q Do you know what yeat she waw born in? A No, I couldn't tell you.
Q Do you know what year you was married in? A No, sir, don't ask me anything like that. I couldn't tell you anything like that because I can't. I couldn't tell the date.
Commissioner: You were a slave were you? A Yes, sir.
Q Did you ever go to school? A No, sir, I never did in my life.

LEWIS WHITMIRE, being sworn by Commissioner Needles, and examined by Mr. Smith, Attorney for applicant, testified as follown:

Q State your name? A Lewis whitmire.
Q How old are you? A 62 years old.
Q Where do you live? A On Lightning Creek.
Q What is your post office? A Hayden.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life; never was out of the Cherokee Nation.
Q Are you on the roll of 1880? A Yes, sir.
Q Are you a Cherokee citizen? A Yes, sir.
Q Do you know this applicant, Katie Thornton? A Yes, sir, I know her

Q How long have you known her? A Why I have knowed her ever since she was a young woman, in slavery tijes.
Q To whom did she belong? Was she a slave? A To Dr. Thornton; she was a slave under Dr. Thornton.
Q Who was Dr. Thornton's wife? A She was a Alberty; she was John Alberty's daughter.
Q With whom, if you know, was this woman, Katie, living at the time the war commenced? A She was living with Dr. Thornton and his wife when the war commenced.
Q When did you first see this applicant, Katie Thornton, after the war? A I saw her up here on Lightning Creek.
Q Well where was that, in the Cherokee Nation or Kansas?
A It was in the Cherokee Nation.
Q When was it, what year? A It was in the fall of '66.
Q Do you know where she lives now? A Well, yes, sir; I know where she lives; she lives on Big Creek now.
Q How far from you? A It must be 15 miles, I guess, amd may be more.
Q Where she, at what point when you first saw her? A She was living on the place where Bill Madden is living now; her husband took a claim there.
Q How long did she live at that point, or in that immediate neighborhood? A I don't remember how long he lived there beofre he sold out there and went away.
Q Do you know whether she had any children or not in '66? A I think she had three children as near as I can recollect at that time.
Q Well do you know where they are now? A I don't know where the oldest is. No, sir, I don't.
Q Were these children boys or girls? A I do know the oldest child was a boy and he died in Tahlequah after she lived up there. I know about that because I was there a week when they buried him.
Q Do you know anything about the girls? A I don't know about the girls; they moved from there and went to Big Creek and lived there.
Q Do you know whether they were ever married or not? A No, sir, I don't.

W. W. Hastings: How much of a place did they make there, Lewis?
A They made a small place.
Q About how many acres? A I guess it must have been five or six acres they broke out.
Q How long did they live there? A Some thing over one year before he sold out.
Q Who did he sell to? A I think Harry Still bought the claim from him.
Q And they didn't sell to Madden then? A No, I think Harry Still sold to Madden.
Q '66 has been a long time ago? A Yes, it has been a long time ago
Q Are you willing to come to the stand and testify for people when they come in and out of the country 35 years ago? Are you willing?
A If I remember and know it, of course I am willing.
Q Did you testify for this woman five years ago, were you her witness five years ago? A I expect I was.
Q Do you know? A I don't know for certain, but I think I was.
Q Ain't your memory any better than that? A Why i remember that I witnessed for her once before this.
Q That was before the Kern-Clifton Court? A I think it was either the Kern-Clifton Court or the Wallace Court one.
Q You are not positive now are you? A Why I am positive that I witnessed at one of those courts.
Q You are not positive which Court? A No, sir.
Q Well now, how many children do you think she had when you first saw her there? A Why I don't remember well how many children she had because I didn't go around them people much, but I know the boy and the oldest girl was big enough to go to our subscription school.

Q You mean her oldest girl was old enough to go to your subscription school? A Her oldest boy and girl.
Q That was the first year after she come down there? A It was the first year and may be the second year, if I ain't mistaken.
Q How long did she live down there? A I told you how long she lived there as well as I recollect.
Q About how long then? A About two year.
Q That is your best judgment is it, Lewis? A Yes, sir.
Q And she had a boy and a girl that went to your school? A She had a boy and a girl to go to school, and they were close neighbors to the school there where they were camping.
Q Do you know what the boy's name was? A I most forgot that boy's name; he has been dead so long. I think thought his name was William
Q Who taught that school? A I don't remember what person taught it; we had a subscription scholl though.
Q Where was the schell located? A It was located right where we have a school house now.
Q What is known as the Hayden scholl house where we took the census five tears ago? A Yes, sir.
Q The same place? A Yes, sir, only it wasn't the same house.
Q It is a box house now? A Yes, sir.
Q That was a log house then? A Yes, sir.
Q You don't remember who taught it? A Not, sir, we had so many teachers there, until we got a teacher furnished from the Nation.
Q How is your recollection about dates, is it good? A No, sir, I don't know nothing about dates, less I go out and make a trade with some men and happen to give him an offer for it, and he will date it, and I bring it home, and I know I made a certain sale at a certain date. I don't date my business; I have no education.
Q Do you know years? A I know years: I know when Christmaw comes I know one year is gone.
Q That is all you know about it, is it? A Yes.

Case continued by Stenographer J. O. Rosson.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilised Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 10th day of July, 1901.

(Signed) T. B. Needles,
Commissioner.

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June 7th, 1901.

Continuation of application of Katie Thornton for the enrollment of herself and two children as Cherokee Freedmen:
Former portion taken by stenographer E. G. Rothenberger.

KATIE THORNTON, the applicant, re-called, further testified:
By W. W. Hastings, Cherokee Representative:

Q What was your next child born after Maggie? A Georgie.
Q Was it a girl or boy? A It is a boy and he is dead.
Q He is dead? A Yes, sir.
Q How much older was Maggie than George? A He is about two years old.
Q What was the next child of Georgie? A The next was Rutha.
Q How much older was Rutha than Georgie? A He was very near two years.

Q Did you ever have a child by the name of William? A Yes, sir, the oldest was named William.
Q Was he older than Maggie? A Yes, sir.
Q How long did you live on the Maddin place? A I could not tell you, I lived there some, very near four years; somewheres between four and five I could not tell you, I lived there a good little while
Q Where did William die? A He died down at Tahlequah.

COM'R NEEDLES: Katie Thornton applies for the enrollment of herself and her two children, Millie and Emma. She cannot be identified upon the authenticated roll of 1880 or the census roll of 1896. She is duly identified upon the Kern-Clifton r oll and Wallace roll. Her two children are identified upon the Kern-Clifton roll. They make satisfactory proof as to residence and will now be listed for enrollment as Cherokee Freedmen on a doubtful card, and she will be duly notified by mail of the decision of the Commission when arrived at.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J: O. Rosson.

Subscribed and sworn to before me this 15th day of June, 1901.
(Signed) T. B. Needles,
Commissioner.

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J. O. Rosson, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript of the testimony and proceedings in the above case.

J. O. Rosson

Subsdribed and sworn to before me, this 21st of August, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., JUNE 7th, 1901.

In the matter of the application of Eliza Thornton for the enrollment of herself and one child as Cherokee Freedmen; said Thornton being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Messrs. Mallette & Smith for Applicants.
Mr. W. W. Hastings for Cherokee Nation.

Q What is your name? A Eliza Thornton.
Q How old are you? A 28.
Q What is your post office address? A Hudson.
Q What district do you live in? A Ceowessecowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A I have one child.
Q What is the name of the child? A Bessie Williams.
Q Are you married? A No, sir.
Q Ever married? A No, sir.
Q How old is Bessie Williams? A She is five years old.
Q Your name not on the roll of 1880? A No, sir.
Q On the Kern-Clifton roll and Wallace roll? A Yes, sir.

The 1880 Authenticated roll of Freedmen of the Cherokee Nation examined and applicant's name not found thereon.
The Kern-Clifton roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 141, #3511, Eliza Thornton, Ceowessecowee District.
The Wallace Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 142, #2969, Eliza Thornton, Ceowessecowee District.

Q Did you draw strip money for this child? A No, sir.
Q What is your father's name? A Henry Thornton.
Q Is he living? A No, sir, he is dead.
Q What is your mother's name? A Katie Thornton.
Q Is she the Katie Thornton who has been enrolled here this morning? A Yes, sir.
Q Well, have you always lived in the Cherokee Nation? A Yes, sir.
Q Where were you born? A Born on Big Creek.
Q Cherokee Nation? A Yes, sir.
Q Say you were never married? A No, sir.
Q Is this child Bessie living? A Yes, sir.

COM'R NEEDLES: Eliza Thornton applies for the enrollment of herself and one child, Bessie Williams. She is not identified upon the authenticated roll of 1880 or the census roll of 1896, but is identified upon the Kern-Clifton roll and Wallace roll. She avers that she is the daughter of Katie Thornton who has this day been listed for enrollment on Doubtful card #878, and the testimony taken in said case will be made part of the record in the case at bar and a copy thereof will be filed with the testimony now being taken. Upon the filing of satisfactory proof as to the birth of her child, Bessie Williams, said Eliza Thornton and her child will be listed for enrollment as Cherokee Freedmen upon a doubtful card, having made satisfactory proof as to their residence. The final decision of the Commission will be made known to the applicant at her post office address.

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Elisa Thornton, et al.--5.

J. C. Rosser, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J C Rosser

Subscribed and sworn to before me this 17th day of June, 1901.

Commissioner.

File with case of Eliza Thornton, et al. C.F.-D.#682.

Supl.C.F.-D.#678.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 26th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of KATIE THORNTON, ET AL., as Cherokee Freedmen, introduced on part of the Cherokee Nation:

Appearances:
Mallette & Smith, Attorneys for Applicants;
Mr. Hastings, of Counsel for Cherokee Nation.

W. A. JOHNSON, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation.

MR. HASTINGS: What is your name? A W. A. Johnson.
Q What is your age, Mr. Johnson? A 71 years.
Q What is your post office? A Garnett, Kansas.
Q How long has that been your post office? A Since '58.
Q Were you acquainted with a colored man by the name of Henry Thornton? A Yes, sir, I was.
Q Did you know his wife? A I knew he had a wife and knew her, but I don't know her first name.
Q I will ask you what was Henry Thornton's physical condition?
A He was a cripple, he walked with one crutch.
Q What was his occupation? A He was a shoemaker.
Q How long did you know him there in Garnett after the war?
A Five or six years.
Q About when did you first learn to know him? A I am not certain when I first knew him, it was '66 or '67, somewhere along there is when he first came there.
Q Do you remember about the time that the colored people were allowed to vote in Kansas? A Yes, sir.
Q About when was that? A I think it was in '70.
Q Do you know whether or not Henry Thornton was there at that time?
A He was there during the time we were holding an election to amend our Constitution with reference to the question of suffrage.
Q When was that? A That was in '68, and I think he remained there about two years after that.
Q Did you know anything about his family? A No, I did not, in particular, about them.
Q I believe you say he was a cripple? A Yes, sir.
Q Walked on a crutch? A Used a crutch in getting around.

MR. SMITH: Mr. Johnson, it was either in '66 or '67 that you first knew him? A Somewhere along there I would not be positive.
Q Might have been '68? A I think I knew him a little earlier than '68.
Q But you can't be positive about that? A No, but I am positive about my knowledge of him in '68.
Q But back of that you are not positive? A Not when I first knew him, he worked in the shoeshop there with Mr. Sellers.
Q You don't know anything about his family? A I know he had a family.
Q How do you know that? A I have seen his family.
Q Upon how many occasions did you see him in '68, except the one you mentioned in your testimony in chief? A Why I evidently saw him every day.
Q Now think about you saw him every day during the year 1868?
A Every day when I was around town.
Q Well, you think he was around town there every day you were?
A Why, I think so.

Q You don't know that? A I never missed him.
Q You don't know that? A No, of course; there is a fact that exists that I recollect certain about his being there in 1868.
Q Well, tell that? A From having him as a witness in a suit there between two of our citizens and the peculiarity of his testimony, of which I am positive.
Q What suit was that? A It was a suit between Henderson Cavinder and Sam Fulkinfider.
Q Have you looked up the record to see when that was? A No, sir.
Q Do you know that occurred in 1868? A I know it occurred in '68 from the fact it was during the time we were discussing the question of amendments of our Constitution, from the conversation which took place between Cavinder and Henry Thornton.
Q You don't know whether the Katie Thornton who is an applicant in this case is in any way connected with the xxxxx you are talking about? A No, I do not.

Taking of testimony continued by stenographer Chas. von Weise.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this November 12th, 1901.

Commissioner.

( Continued from stenographer John O. Rossow, at Vinita, I.T. Oct. 26, 1901 )

WILLIAM RAY being first duly sworn by Com'r T. B. Needles, testified as follows for the Cherokee Nation

( By W. W. Hastings )

Q What is your name? A William Ray.
Q What is your age? A 55 years.
Q What is your post office address? A Garnett, Kansas.
Q How long have you lived in Garnett, Kansas? A Ever since '67 or '8.
Q I will ask you if you knew a colored man known by the name of Henry Thornton? A Yes sir.
Q In Garnett, Kansas? A Yes sir.
Q Did you know his wife, Katie? A Yes sir.
Q Did he have any family then? A Yes sir.
Q Do you remember any of the names of the members of his family, the children? A I dont recollect them at present, I dont know as I can call them.
Q What did Henry Thornton do? A He worked in a shoe shop.
Q Do you remember whose shoe shop it was he worked in? A Barney Setters if I am not mistaken.
Q Do you know when Henry Thornton and his wife Katie left there? A I know when they left, it was in '71.
Q What day in '71? A The first day of March, if I am not mistaken and I know I am not.
Q You know you are not? A Yes sir.
Q Who left with them? A My brother in law and sister.
Q Where did they go to? A They said they was coming to the Cherokee Nation.
Q Had you seen Henry Thornton, the husband of Katie, frequently while they were living there at Garnett, Kansas? A Yes sir.
Q How frequently did you see him? A Well, at that time I was in town doing work around there and I saw him passing the shop very frequently.
Q Did you ever miss him for any length of time until he left there? A No sir.
Q How long was it after you came there before you became acquainted with him? A I can't just tell exactly what time, somewhere in about 3 or 4 months, 5 or 6 anyway.
Q Was it time after you came there? A Yes sir.

( By Smith )

Q What time did you come there in '67? A In June.
Q How long then was it before ye became acquainted with this man?
A I cant say the date, 3, 4 or 5 months after.
Q Might have been sooner than that? A Might have been sooner and it might have been longer.
Q Might have been longer than that? A Yes sir.
Q You had no acquaintance with him before that time? A No sir.
Q Where did you ever see this man's wife—first? A That is something I dont know as I can speak where I first saw her, they lived on 7th Street when I first knew them, as to the time and date I cant say.
Q 7th street in Garnett, Kansas? A Yes sir.
Q How large was Garnett then? A Oh a small place.
Q How many stores? A 5 or 6.
Q Do you mean to say that they had the streets numbered then? A I think east and west they had numbered them—seems as if commenced at first avenue and runs to 7th.
Q Do you know when they first commenced to number them? A No sir
Q You dont know if it was 7th Street then or not? A It was on what they calls 7th street now.
Q You dont know where these people lived before you saw them? A No sir. How could I?
Q You dont know if they were there all the time from the time you met them until they left do you? A No sir I cant say as to that not all the time I was.
Q You dont know how long they had been there at Garnett? A Yes sir

Q What makes you say it was the first of March? A Because I can prove it was the first of March.
Q How can you prove it? A I can prove it by identification; I dont know if the Colonel can remember the date or not, if you want me to tell how I know it I will tell you.
Q I dont want to know how you can find it out at some other time,but how you know it now? A On or about two or three days before the first of March,John Tyler, my brother in law lived in the same block I did, Henry Thornton lives in the same block I did, and they both sold out on that day and fixed up their papers in Garrett and I can prove what I say; they sold to a man that lived in the same block, and I know I bit them good bye; my father moved down here with them on the first day of March.
Q Have you examined the records since that time to find out what it was? A I dont know as I have, I looked an abstract back two or three times and I found out it was a fact. A sometimes buy in property for taxes.
Q You just remember anyhow that it was the first of March? A I know it is a fact,Mr. Smith.
( By Hastings )
Q From the time you first knew him until he left you never missed him did you? A No sir I saw him every once in a while.
Q He owned property there did he? A He did.
Q And it was about that time,that he sold it? A Yes sir.

HARRY STILL, being first duly sworn by Com'r T. B. Needles, testified as follows on the part of [illegible] is recalled by the Cherokee Nation for further cross-examination:
( By Mr. Hastings )
Q Wha. was Katie Thornton's husband's name? A Henry.
Q What was Henry's occupation? A Farmer.
Q Was he a shoemaker? A Not as I know of.
Q Was he a cripple? A Yes sir.
Q Walked on a crutch? A Yes sir.
Q You never knew him in Garrett,Kansas? A No sir.
Q He was a cripple? A Yes sir.

This will be filed in the original application in Cherokee Freedmen Doubtful cases, D-578; D-579; D-580; D-581; D-582 and D-585.

Chas. von Weise, being first duly sworn says that he is stenographer to the Commission to the Five Civilized Tribes, that he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes thereon.

Subscribed and sworn to before me this 7th day of October, 1901.

C. H. Treadwell
Commissioner.

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Eliza Thornton, D 882;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not tend to show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District, Indian Territory.

Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed within thirty days to file any of the proof of any or all of the record other than the decree already referred to

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly stremuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

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I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E C Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P G Reuter
Notary Public.

WSDM

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
October 23, 1906.
Cherokee Freedman Rejected No. 413.

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In the matter of the enrollment of Eliza Thornton.

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ELIZA WEST, Being duly sworn by B. P. Rasmus, testified as follows:

BY COMMISSIONER:

Q What is your name? A Eliza West.
Q What is your age? A 26.
Q What is your postoffice address? A Chelsea, I. T.
Q Are you a claimant to enrollment as a Freedman citizen of the Cherokee Nation? A Yes sir.
Q Under what name were you enrolled? A Eliza Thornton.
Q What was your father's name? A Henry Thornton.
Q What was your mother's name? A Katie Thornton.
Q You are married, are you? A Yes sir.
Q What is your husband's name? A Callis West.
Q How old is he? A 26.
Q Do you know his father's name? A Houston West.
Q What was his mother's name, do you know? A No I don't know.
Q When were you married to him? A 20th of last September two years ago.
Q That would be on the 20th of September, 1904, would it? A Yes.
Q Are you living together at the present time? A No we are not living together.
Q Are you divorced? A No sir.
Q Have you and he any children? A No sir.

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STATEMENT: Eliza Thornton is identified as No. 1 on Freedman Rejected Card No. 413. Callis West is identified as No. 1 on Freedman Card No. 1417.

Chief Clerk Cherokee Land Office

Mabelle Cohenour, stenographer to the Commissioner to the Five Civilized Tribes, states on oath that she reported the proceedings had in the above entitled cause on the above named date and that the foregoing is a true and correct transcript of her stenographic notes taken in said cause on said date.

Mabelle Cohenour

Subscribed and sworn to before me this 23rd day of October, 1906.

B. P. Rasmus
Notary Public.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

FCT

In the matter of the application for the enrollment of Katie Thornton, et al. as Cherokee Freedmen, consolidating the applications of

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|---|---|---|---|
| Katie Thornton, et al., | Cherokee Freedmen | D | 578 |
| Maggie Curls, | " | D | 580 |
| Joseph Thornton, et al., | " | D | 581 |
| Eliza Thornton, et al., | " | D | 582 |
| Lottie Lynch, et al., | " | D | 585 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission:— by Katie Thornton for herself and her minor children, Willie and Emma Thornton; by Maggie Curls for herself; by Joseph Thornton for himself and his minor child, Ethel Thornton; and subsequent to the date of his original application a birth affidavit showing the birth of James Alvin Thornton was filed and is made a part of the record herein; by Eliza Thornton for herself and her minor child, Bennie Williams, and by Lottie Lynch for herself and her minor children, Herbert Curls and Sedalia Riley.

The evidence shows that the applicant Katie Thornton was the slave of a Cherokee citizen at the commencement of the rebellion, and that she was taken out of the Cherokee Nation during the rebellion. She states that she returned to said Nation in the fall of 1866, with Peter Haigh and family; but this Commission has found, in the case of Elizabeth Haigh, Cherokee Freedmen D 391, that though Peter Haigh, himself, returned to said Nation prior to January 19, 1867, he did not bring his family with him until a subsequent trip made in the spring of 1867. Hence, it appears that Katie Thornton, who came with said family, did not return to the Cherokee Nation until after January 19, 1867.

The evidence further shows that the applicants Willie, Emma, Joseph, Ethel, James Alvin and Eliza Thornton, Maggie Curls, Bennie Williams, Lottie Lynch, Herbert Curls and Sedalia Riley are the descendants of said Katie Thornton, born since the commencement of the rebellion, and have no rights as Cherokee Freedmen, except through her. None of the names of the applicants herein, are found on the 1880 enumerated Cherokee roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alvan Thornton, Elias Thornton, Bessie Williams, Lottie Lynch, Herbert Curls and Nahalia Riley as Cherokee Freedmen should be denied, under the provisions of section fourteen of the act of Congress, approved June 28, 1906 (34 Stats.,516), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED). Tams Bixby
CHAIRMAN.

(SIGNED). T. B. Needles
COMMISSIONER.

(SIGNED). [illegible]
COMMISSIONER.

(SIGNED) [illegible]
COMMISSIONER.

Muskogee, Indian Territory,
this MAR -5 190[illegible]

D FD 582

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
JUN 26 1901

ACTING CHAIRMAN.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Nowata, Indian Territory, June 26th, 1901.

Received of the Commission to the Five Civilized Tribes, one copy of the original testimony of June 7th, 1901, in the matter of the application of Eliza Thornton et al for enrollment as Freedmen of the Cherokee Nation.

Mellette & Smith

Attorneys for Applicants.

Cherokee F. #D582.

Cherokee Freedmen
D 582

Muskogee, Indian Territory, March 21, 1904.

Eliza Thornton,

Hudson, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting, among others, your application for the enrollment of yourself and your minor child, Bessie Williams, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Encl. V-59
Registered.

Cherokee Freedmen
D 878, 880, 881,
882, 883.

Muskogee, Indian Territory, March 21, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 8, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alven Thornton, Eliza Thornton, Bessie Williams, Lottie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Encl. V-62

Commissioner in Charge.

COPY.

Cherokee Freedmen
D 578, 580, 581,
582, 583.

Muskogee, Indian Territory, March 21, 1904.

Edgar Smith,

Attorney for Katie Thornton, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie Thornton, Willie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alven Thornton, Eliza Thornton, Bessie Williams, Lettie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Encl. V-61

Registered.

Commissioner in Charge.

COPY.

Cherokee Freedmen
# 570, 580, 581,
582, 583.

Muskogee, Indian Territory, March 21, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Katie Thornton, et al., including the Commission's decision dated March 5, 1904, rejecting the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alvan Thornton, Eliza Thornton, Bessie Williams, Lettie Lynch, Herbert Curls and Sedalia Riley as Cherokee Freedmen.

Respectfully,

T. B. Needles.

Encl. V-62 Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

COPY

Refer in reply to the following:
Land 20179-1904.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 9, 1904.

The Honorable,
The Secretary of the Interior,
Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes, dated March 21, 1904, transmitting the record of the applications for enrollment as Cherokee Freedmen of Katie Thornton, and her minor children Millie and Emma Thornton; by Maggie Curls for herself; by Joseph Thornton for himself and his minor children Ethel and James Alvan Thornton; by Wilma Thornton for herself and her minor child, Dennis William, and by Lottie Lynch for herself and her minor children, Herbert Curls and Goldie Riley.

March 8, 1904, the Commission found that the applicants were not entitled to enrollment as Cherokee Freedmen.

The evidence shows that the applicant, Katie Thornton was the slave of a Cherokee citizen at the commencement of the war of the Rebellion and that she was taken out of the Cherokee Nation during the rebellion. She states that her oldest child, Maggie was born in the year 1865 in Kansas, and that she returned to the Cherokee Nation in the fall of 1865.

Her witness, Barry Still, swears that he saw the applicant, Katie Thornton, in the Cherokee Nation in the fall of 1865,

and that she had with her Maggie and two or three younger children of her own. Her witness, Lewis Whitmire, swears that he saw the applicant, Katie Thornton, in the Cherokee Nation in the fall of 1866, and that she had three children and the eldest two went to school. With the eldest child of the applicant, Katie Thornton, born in 1865, it is not deemed probable that she arrived in the Cherokee Nation with three children in 1866.

The applicants, Millie, Emma, Joseph, Ethel, James Alven and Eliza Thornton, Maggie Curls, Minnie Williams, Lottie Lynch Herbert Curls and Godalia Riley are descendants of the applicant, Katie Thornton and were born in 1865 and since, and have no rights as Cherokee Freedmen, except such as they may have acquired through her.

None of the names of the applicants are found on the 1880 authenticated Cherokee Roll.

In view of the record the approval of the Commission's decision adverse to the applicants is recommended.

Very respectfully,

A.C. Tonner,
Acting Commissioner

M.M.M.

W.

[redacted]

[redacted]

[redacted]

[illegible]
3-522.

Muskogee, Indian Territory, June 29, 1904.

Mrs. Thornton,
Hudson, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision, dated March 5, 1904, rejecting, among others, your application for the enrollment of yourself and your minor child, Bessie Williams, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen,
D-578, 580, 581,
582 & 583.

Muskogee, Indian Territory, June 29, 1904.

Edgar Smith,

Attorney for Katie Thornton et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie, Millie, Emma, Joseph, Ethel, James Alvon and Eliza Thornton, Maggie and Herbert Curls, Bessie Williams, Lettie Lynch and Sedalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

[redacted]

Muskogee, Indian Territory, June 26, 1904.

T. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 9, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie, Willie, Emma, Joseph, Ethel, James Alva, and Elsie Thornton; Maggie and Herbert Ferlin; Bessie Williams; Lottie Lynch; and Sedalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner to the Five

Cherokee Freedmen,
D-676,680,681,
502 & 503.

Muskogee, Indian Territory, June 29, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie, Millie, Emma, Joseph, Ethel, James Alvin, and Eliza Thornton; Maggie and Herbert Curlis; Bessie Williams; Lottie Lynch; and Sedalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, February, 15, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith a motion filed June 11, 1906, by Starr & Patten, Vinita, Indian Territory, for a rehearing of the consolidated Cherokee freedmen cases of Katie Thornton et.al. The reply of the Attorney for the Cherokee Nation to this motion, filed July 5, 1906, is also enclosed. July 21, 1906, there was filed by attorneys for [redacted] an amended motion for rehearing.

The decision of the Commissioner to the Five Civilized Tribes dated March 5, 1904, rejecting the application for the enrollment of the applicants embraced in the consolidated Cherokee Freedmen case of Katie Thornton et.al. was affirmed by the Department June 21, 1904 (I.T.D. 4736-1904).

Unquestionably the motion for a rehearing of this case is without merit.

Attached to the motion for rehearing is what purports to be sworn statements by J. M. Thornton, who states that he was living in Anderson County, Texas, in the year 1866; that he knew Henry Thornton; that Henry Thornton and his wife separated, and that his wife "came to the Cherokee Nation, Indian Territory, in the fall of 1866." It is also supported by the affidavits of

Leander, Joe, and Tobias Bean.

Attached to the amended motion for rehearing are affidavits by Betsy Whitmire, Eliza Whitmire, Tobias Bean and Arthur Bean, all of whom sign by mark, and the affidavit of said J. M. Johnston.

J. M. Johnston, whose postoffice address is Garnett, Kansas has testified for Starr & Patten in several Cherokee freedmen cases, as have Betsy Whitmire and Eliza Whitmire. The other parties to the affidavits in support of this motion have testified in practically every Cherokee freedman case tried before the Commissioner in the last eighteen months, in which Messrs. Starr & Patten have appeared as attorneys.

The statements contained in the affidavits are general, and merely state that Katie Thornton returned to the Cherokee Nation and established a residence therein in 1866.

Katie Thornton swore that she returned to the Cherokee Nati after the war of the rebellion, with her husband, Henry Thornton. Th Cherokee Nation introduced W. A. Johnson, of Garnett Kansas, who swor that he became acquainted with Henry Thornton in 1866 or 1867, and th he continued to reside in Kansas until about 1870, and also William Ray of Garnett Kansas, who swore that Henry Thornton and his wife left the state of Kansas, in company with his brother-in-law and sis ter, on the first day of March, 1871. It will be seen that the stat ments in the affidavit of J. M. Johnston to the effect that Henry Thornton and his wife separated, and that his wife came to the Chero kee Nation in 1866, is directly contradictory to the sworn statemen

of Katie Thornton herself.

There is nothing to show that the evidence now sought to be be introduced is newly discovered, or that with due diligence the same could not have been secured when the case was heard before the Commissioner; nor is there anything to show that the motion is not made for the purpose of delay. Following the rulings of the Department of September 26, 1906 (I.T.D. 18084-19068-1906), in the Cherokee freedman case of Jennie Martin et. al and of March 24, 1906, (I.T.D. 2758-1905, 6206-1903), in the Cherokee freedman case of Ann Johnson et. al., itis respectfully recommended that the motion be denied.

Respectfully,

Through the
Commissioner of Indian Affairs.

Commissioner.

Encl. B-15
I M B

Cherokee F.R.
413

Muskogee, Indian Territory, April 1, 1907.

Eliza Thornton,

Hudson, Indian Territory.

Dear Madam:

You are hereby advised that the motion filed for a re-hearing by your attorneys, Starr & Patten, Vinita, Indian Territory, June 11, 1906, in the matter of the application for the enrollment of yourself and minor child, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

Respectfully,

RPI

Commissioner.

Cherokee P.R.
410 et al.

Muskogee, Indian Territory, April 1, 1907.

Starr & Patten,

Attorneys for Katie Thornton, et al.

Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motion filed for a rehearing by you June 11, 1906, in the matter of the application for the enrollment of Katie Thornton, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Commissioner.

Enc 1-3

RPI

Cherokee F.R.
410

Muskogee, Indian Territory, April 1, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motion for a re-hearing filed June 11, 1906, by Starr & Patten, Attorneys, Vinita, Indian Territory, in the matter of the application for the enrollment of Katie Thornton, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Geo. D. Rodgers.

Commissioner.

Enc 1-2.

KPI

W.H.M.
C.R.W.

DEPARTMENT OF THE INTERIOR,

D.C. 12667-1907.
I.T.D.5738-1907.
LRS.

WASHINGTON. March 2, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

February 27, 1907 (Land 16332), the Indian Office transmitted your report of February 13, 1907, forwarding a motion for review in the Cherokee freedmen case of Katie Thornton, et al., and concurred in your recommendation that the motion be denied.

The Department also concurs in your recommendation, and the motion is accordingly denied.

A copy of Indian Office letter is enclosed for your information. All the other papers in the case have been returned for the files of the Indian Office, together with a carbon copy hereof.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

1 enclosure, and
7 enclosures to Ind. Of.,
with copy hereof.

A. F. Mc.
3-2-07.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

LAND.
15621-1907.
16332- "

WASHINGTON. February 27, 1907.

(COPY)

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of February 13, 1907, denying motion for review of Departmental decision of August 2, 1905, in Cherokee freedmen case of Katie Thornton, et al., I have the honor to transmit herewith a communication from Commissioner Bixby, dated February 13, 1907, enclosing motion filed June 11, 1906, by Starr & Patten, Vinita, I.T., for a rehearing of the consolidated Cherokee freedmen case of Katie Thornton, et al.

This motion is wholly without merit, as there is nothing to show that the evidence now sought to be introduced is in any way newly discovered or that with due diligence it could not have been secured when the case was heard before the Commission originally, nor is there any showing made that the motion was not for the purpose of delay. It is recommended that it be denied.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EWB--GD.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date JUN 7 - 1901

Post Office Hudson, I.T.

District COOWEESCOOWEE.

1. Name Dorbtful Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

2. Name of wife Eliza Thornton Age 27

Owner's name Citizenship

Year K. R. Page 181 No. 3511 District COOWEESCOOWEE.

Parents:

Father Henry Thornton dead Citizenship Cherokee

Mother Lucinda " living Citizenship "

Names of Children:

3. Bessie Williams Year Page No. Dist. 5

4. Year Page No. Dist.

5. Year Page No. Dist.

6. Year Page No. Dist.

7. Year Page No. Dist.

8. Year Page No. Dist.

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by Atty Stenographer J.B. Rowan

1. See Wallace Roll P. 147 No 7969 COOWEESCOOWEE.

2. Birth certificate required

Represented by Mellette Smith, Ennis & Mellette

Int to W 5/8

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Eliza Thornton,
Hudson, I. T.
Cherokee F-D-522
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cher. Fr. R. 414

See Cher. Fr. R. 410

Cher. Fr. R. 414

State of Oklahoma :
: ss
County of Craig. :

Lottie Vanderford, being duly sworn, on her oath states that she is thirty years of age and resides near Chelsea, Oklahoma; that her maiden name was Lottie Thornton and that about fifteen years ago she was married to David Riley, said David Riley being a son of Moses Riley, who is a freedman citizen of the Cherokee Nation, duly enrolled as such on March 4, 1907; that of said marriage there was born a child named Sedalia Riley; that said Sedalia Riley is the daughter of David Riley and affiant was her mother; that said David Riley died prior to September 1, 1902, but that on September 1, 1902 the said Sedalia Riley was living and is still living at this time and is fourteen years of age; that in the matter of the application for enrollment of affiant she applied as a member of the Thornton family who were rejected as freedmen citizens and when she made application, her husband, David Riley, being dead, she applied for the enrollment of said Sedalia Riley through herself and the enrollment, therefore, of the said Sedalia Riley, was rejected because affiant's application for enrollment was rejected as a member of the Thornton family.

Affiant further states, however, that said Sedalia Riley being the daughter of David Riley who was the son of Moses Riley a duly enrolled freedman citizen of the Cherokee Nation, said Sedalia Riley, through her father, was entitled to be enrolled as a freedman citizen of the Cherokee Nation in the Riley Citizenship case; that upon the rejection of the Thornton family the time was so short that it was impossible to make the proper showing in order to transfer said Sedalia Riley to the Riley citizenship case and on that account the said Sedalia Riley has been

left off of the rolls; that said Sedalia Riley, through her said father, David Riley and through her grand father, Moses Riley, is as much entitled to be enrolled as any member of the Riley citizenship case.

That said Sedalia Riley has always been a resident of the Cherokee Nation and is still living and such resident and is now fourteen years of age.

Lottie Vandenford

Subscribed and sworn to before me this the 13th day of February, 1911.

Howard D Smith
Notary Public.

Commission expires
February 25, 1914.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., JUNE 7th, 1901.

In the matter of the application of Lottie Lynch for the enrollment of herself and two children as Cherokee Freedmen; said Lynch being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Messrs. Mellette & Smith for Applicants.
Mr. W. W. Hastings for Cherokee Nation.

Q What is your name? A Lottie Lynch.
Q What is your age? A 20.
Q What is your post office address? A Chelsea, I. T.
Q What is your father's name? A Albert Webb.
Q What is your mother's name? A Maggie Curls.
Q Are you married? A No, sir.
Q Ever been married? A Yes, sir.
Q What is your husband's name? A Well I ain't got no husband now.
Q You had one one time you said? A Willie Lynch.
Q Is he living? A No, sir.
Q Who do you want to enroll besides yourself? A Two children.
Q Give me the names of your children? A Herbert Curls.
Q How old is Herbert Curls? A Seven years old.
Q The next child? A Sedalia Riley.
Q How old is Sedalia Riley? A She is five years old.
Q Is your name on the roll of 1880? A Yes, sir.
Q It is on the 1880 roll is it? A No, sir.
Q Is it on any of the rolls of the Cherokee Nation? A Yes, sir, it is on two rolls I think.
Q You say your maiden name was Curls? (No response.)
Q What was your name before you were married? A Lottie Webb.

The 1880 Authenticat d Roll of Freedmen of the Cherokee Nation examined and applicant's name not found thereon.
The Kern-Clifton Roll of Freedmen of the Cherokee Nation Examined and applicant's name found thereon, page 141, #3516, Lottie Riley, Cooweescoowee District.
The Wallace Roll of Freedmen of the Cherokee Nation examined and applicant's name found thereon, page 142, #2971, Lottie Thornton, Cooweescoowee District.

Q How did your name happen to ever be enrolled as Riley? A I was married to a Riley.
Q Have you been married twice? A Yes, sir.
Q Both of your husband's dead? A Yes, sir.
Q What was Riley's name? A Dave.
Q You say you are a granddaughter of Katie Thornton? A Yes, sir.
Q Is your mother living? A Yes, sir.
Q Is she here? A Yes, she was in here just a little while ago.
Q Maggie Curl is your mother is it? A Yes, sir.
Q Where were you born? A On Big Creek.
Q Cherokee Nation? A Yes, sir.
Q Have you always lived there ever since? A Yes, sir.
Q Are these two children living at this time? A Yes, sir.
Q Did you ever draw any money for either of them? A No, sir.

COM'R NEEDLES:--Lottie Lynch applies for the enrollment of herself and two children, to-wit: Herbert Curls and Sedalia Riley. She avers that she is a child of Maggie Curls who has this day been listed for enrollment and the grandchild of Katie Thornton, who is duly listed for enrollment as a Cherokee Freedman upon Doubtful card #878, and the testimony taken in said case will be made a part of the record

in the case now under sondieration and a copy of the same will be filed with the testimony now being taken. She avers that she was married to one Dave Riley by whom she has Sedalia Riley. She is identified upon the Kern-Clifton roll as Lottie Riley and upon the Wallace roll as Lottie Thornton that having been her maiden name. She avers that she was married to one Willie Lynch, now deceased. She has one child by the name of Herbert born before her marriage, seven years of age, and one other child, Sedalia Riley, born by her marriage to said Dave Riley. She is duly identified and makes satisfactory proof as to residence, consequently Lottie Lynch and her two children, Herbert Curls and Sedalia Riley, will be listed for enrollment as Cherokee Freedmen upon what is known as a doubtful card. It will be necessary for her to file with the Commission satisfactory proof of the birth of her two children. She will be notified by mail of the decision of the Commission.

---oooOOOooo---

J. O. Rossen, being first duly sworn, states that as stenographer to the Commission to the Five Dicilived Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rossen

Subscribed and sworn to before me this 17th day of June, 1901.

Commissioner.

To be filed with case of Lottie Lynnch, C. F. D. #583.

DEPARTMENT OF THE INTERIOR/
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., JUNE 7, 1901.

In the matter of the application of Katie Thornton for the enrollment of herself and two children as Cherokee Freedmen; she being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Mellette & Smith, for Applicants;
W. W. Hastings, for Cherokee Nation.

Q What is your name? A Katie Thornton.
Q How old are you, Katie? A I just really don't know, but they guessed at it before and they thought I was 65 in the other court.
Q About five years ago? A Yes, sir.
Q That will make you about seventy now? A Yes, sir, I gues so.
Q What is your post office? A Hudson.
Q What district do you live in? A Cooweescoowee.
Q You apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they under age and unmarried? A They are unmarried. I have two to enroll.
Q Are they under age? A Yes, sir.
Q What are their names? A Maggie Curls.
Q Is she married? A Yes, sir.
Q Are these children all married? A Yes, sir, all married but two. The youngest one is Millie Thornton.
Q How old is Millie? A She is 19.
Q The name of the next child? A Emma Thornton.
Q How old is Emma? A 17.
Q Is your name on the roll of 1880? A No, sir.
Q Did you draw what is known as the strip money? A Yes, sir, I drawed strip money and Wallace money too.
Q Knock mmm Are you married now? A No, sir, my husband is dead.
Q What was his name? A Henry Thornton.
Q Is he living? A No, sir.

The 1880 authenticated roll and the 1896 census roll examined and the names of the applicants not found thereon.
The Kern-Clifton Roll examined and the names of the applicants are found thereon as follows:
Page 141, No. 3509, Katie Thornton, Cooweescoowee Dist.
Page 141, No. 3512, Millie Throtnon, Cooweescoowee Dist.
Page 141, No. 3513, Emma Thornton, Cooweescoowee Dist.
The Wallace roll examined and the name of the applicant is found on page 195, No. 3549, Katie Thornton, no district.

Q Have you got any witnesses, Katie? A Yes, sir.
Q Who are they? A Harry Still, Jack Landrum, Frank Ross, and Lewis Whitmire.
Q Katie were you a slave? A Yes, sir.
Q To whom did you belong? A John Thornton.
Q Was he a Cherokee citizen? A Yes, sir, Cherokee citizen.
Q An Indian. A Yes, sir.
Q Were you taken out of the Nation during the war? A Yes, sir.
Q Where to? A We went to Fort Scott.
Q Fort Scott, Kansas? A Yes, sir.
Q Who did you go with? A We went out with the people that lived with Thornton, with Fannie Thornton.
Q Went out with Thornton's slaves? A Yes, sir.
Q When did you come back? A Come back in '66.

Q Did you say you come back in '66? A Yes, sir.
Q Where have you lived since that time? A I lived on Lightning Creek first.
Q Have you always lived in the Cherokee Nation since you come back?
A Yes, sir, never been no place else since I come back.
Q Where were y ur children, Millie and Emma born? A In the Nation.
Q Cherokee Nation? A Yes, sir.
Q Have you lived in the Cherokee Nation ever since they were born?
A Yes, sir, them two live with me.
Q Your husband's name was Henry Throtnon? A Yes, sir.
Q How long has he been dead? A He has been dead, this May past, six years.
Q Have you married since? A No, sir, never married since.
Q Was he your first husband? A Yes, sir, he was my first husband.
Q He is the father of Millie and Emma? A Yes, sir.
Q Was he a Cherokee Freedman? A Yes, sir.
Q Who did he belong to? A He belonged to John Thornton.
Q Were you married to him before the war? A Yes, sir, way before the war.
Q Did he go with you when you went out? A We went out together.
Q Did you return together? A Yes sir, both come back together.
W. W. Hastings: Did your husband join the army the time of the war? A Yes.
Q He was in the army until the war closed? A No, sir, he got hurt and he come home; he went out to chop some wood and he hurt his knee and he couldn't walk so they sent him home.
Q When did he come home? A He come home before the soldiers left Fort Scott.
Q About how long before the war closed? A They hadn't started out; they hadn't left Fort Scott.
Q And he remained there at Fort Scott afterwards? A No, sir, we moved afterwards to Garnett with my mother, and after he got crippled I went there for protection, for them to help me.
Q What was your mother's name? A Lydia Ross; she belonged to Lewis Ross.
Q Did you stay in Kansas until after the war closed? A No, I came back in '66.
Q Well the war was over? A Yes, it was over then.
Q What is your oldest child's name? A Maggie Curls.
Q How old is she? A She is somewhere about 36 years old, as near as I can remember.
Q Where was she born? A She was born in Kansas, Maggie was.
Q About how old was she when she come to this country?
A Somewhere near one year old.
Q What time in the year did you come here? A I come down here in the fall, in September, along in September.
Q Are you positive about that? A Yes, I am.
Q Who come with you? A I come along with Peter Meigs then after they had gone after their family.
Q They had been here? A Yes, sir, and come back.
Q Did your husband come with you? A Yes, sir, we all come together.
Q Who else come besides Peter Meigs? A We were the last ones that started. There were three families.
Q Name them? A Peter Meigs, Caesar Smith, David Mayes; there was a lot of them in ahead of us, and we didn't get together; they lived in different places.
Q Did you start from Garnett? A I did; the others didn't live there; we got together on the road.
Q Was Divid Meigs along? A Yes, sir, he was along; Uncle Pete and them had been here and went back after their families.
Q Are you certain that David Meigs' wife and family was along?
A Yes, sir.

Q Where did you come to down here? A We come to Big Creek, down there where they all lived, and stopped there and camped; we stayed there I believe one and a half days.
Q Then where did you go? A Nowhere; I live down to Lightning Creek.
Q Was Madden living there? A No, we made the place.
Q The place that Madden is living on now? A Yes, sir; that is the first place I stopped to locate.
Q With the exception of a day or two you came directly to Madden's place? A No, I went to Mose Whitmire's a few days. We stayed a day or two, and when I left there I come over to where we live.
Q Where you live now? A No, to where Madden lived.
Q How far does Madden live from Hayden? A I don't know; I guess about three-quarters of a mile.
Q What direction? A End of south.
Q Was there any house there then on the Maden place, the place that you made? A No, there wasn't no house until we built it.
Q Built it that fall? A Yes, sir.
Q Same fall you come? A Yes, sir, the same fall we come.
Q Who helped your husband to build it? A Lewis Right, Nels. Wroght, Aaron and Mose whitmire and Ransom Woodall; about one dozen or fifteen men.
Q Did you know any Cherokees living in that country then?
A No, sir, never saw any then.
Q Where did you get anything to eat? A When we wanted anything, a man had to go into the states; they were gone sometimes several days. I think they went in the States somewhere to get it.
Q Was Aaron Whitmire--did he have a field then? A No, they didn't have time to have no field; he just come in then.
Q Did he have a house? A He had some houses up.
Q Did you see Harry Still down there then? A I didn't see him when I first come.
Q How long after you first come was it? A I don't know how long it was before I saw Harry, but I saw his mother.
Q About how long afterwards? A I don't know; I never kept any account of it; I saw Harry but I don't know when.
Q Where was Harry living? A He said he come from his mother.
Q Where did she live? A She lived up on the prairie, on the hill from Hayden.
Q About how far from Hayden? A I couldn't tell; two miles or one--and a half miles.
Q Was she living in a house then? A She was living in a house there then.
Q Who was living with her? A This man Hayden.
Q About how far were they living from you? A I guess somwhere about two miles I guess.
Q In the same neighborhood? A All in the same neighborhood.
Q You knew her did you? A Yes, sir.
Q Did you know her before? A I knowed her before the war.
Q And you got acquainted with her directly after you come down there? A Yes, sir, all old acquaintances and we met each other.
Q Her name was Hayden then? A Not before the war; since the war it was.
Q Her husband was living with her then? A Yes, sir.
Q In the fall of '66? A Yes, sir.
Q You are positive about that? A Why of course I am.
Q They were living within two miles of you? A Yes, I guess it was, but I am not much of a judge to that.
Q Where was Mose Whitmire living then? A He lived right in front of me, not more than half a mile. He lived in front down the hill, and I lived on the hill; he lived in front of me.
Q Did he have a field then? A No, he didn't have no field.

Q Did he have any corn? A No, he didn't have no corn; he had a little there, I don't know where he got that.
Q You just made that place on the public domain? A Yes, sir, I made mine on the public domain.
Q Where did you live before the war? A I lived at John Thornton's.
Q In what part of the Nation was that? A It is a queer name, but I can't call the name.
Q What town is near there now? A There was no town there.
Q I mean now where Thornton lived? A I haven't been back there since I left. I don't know; I will think of the place directly.
Q Was it Tahlequah, or Flint, Goingsnake? A It was Goingsnake we lived.
Q How far did you live from Lewis Whitmire? A I think it was about three miles. I think it was about that far. I know where they lived.
Q You and your husband come back down here together? A Yes, sir, both come together.
Q Did you come in a wagon? A Yes, sir.
Q Did you pass through any town from Fort Scott? A We didn't come from Fort Scott.
Q I mean Garnett? A We come through several little stations.
Q What stations? A I can't remember but one, and I don't remember whether I can remember that; I can't call the name; it has been so long, I get the name; we come through several stations; I can't think of them.
Q Do you think you come through Chetopa? A No, we didn't come through Chetopa.
Q Did you come through Coffeyville? A We come through Pompkin, where Old Parker used to be; that is the way I come.
Q Do you know Henry Armstrong that lived by Caddy's Bluff? A No, sir.
Q Do you know Cal. Coker? A No, sir, I don't know him either.
Q Was there any Delaware Indians living up there when you come?
A No, sir, I never saw them.
Q Have you seen any since? A Since then I have seen Delaware Indians time and again, and I see them every once in a while yet.
Q Did you have any witnesses before the Court before? A Yes, sir, I had just one.
Q Which one? A Old man Peter Meigs.

HARRY GRILL, being sworn by Commissioner Needles and examined by Mr. Smith, Applicant's Attorney, testified as follows:

Q State your name. A Harry Grill.
Q Where do you live? A Hayden.
Q How long have you lived in the Cherokee Nation? A All my life, 54 years.
Q Do you know this applicant, Katie Thornton? A Yes, sir.
Q How long have you known her? A I knowed her ever since I was a little fellow.
Q Was she born a slave? A Yes, sir.
Q Do you know who she belonged to before the war? A TO Thornton.
Q What Thornton was that? A We called him Doc. Thornton.
Q Was he a citizen of the Cherokee Nation? A Yes, sir. I don't know whether she belonged to him or his wife. I know she belonged in the Thornton family.
Q Do you know what Thornton's wife's name was before she married?
A Franklin Thornton they called her.
Q Were they citizens of the Cherokee Nation? A Yes, sir.
Q Where did they live before the war? A I think they lived in Goingsnake.
Q Did you see this woman, Katie Thornton, in the Cherokee Nation after the war? A Yes, sir.
Q When did you first see her? A In the fall of '65.

Q Where? A On Lightning Creek she settled a place known now as Bill Maiden place. Bill Madden lives on her old place.
Q Was there any other members of her family with her, or was she by herself? A She had Henry, her husband; Maggie, she had two or three children and a step-son. I forget his name; he is dead. She had several children.
Q What is her husband's name? A Henryp he was a crippled man.
Q Do you know where this woman, Katie Thornton, has been living since that time? A Yes, sir.
Q Where? A On Big Creek.
Q Do you know whether she has been living there continuously or not? A Yes, sir.
Q Has she? A Yes, sir, when she left Lightning Creek she went to Big Creek and stopped, and has benthere ever since.
Q Has she any gorun children who are married? A Yes, sir.
Q Who are they? A Maggie.
Q Who is Maggie married to? A Julius Curls. That is her oldest girl. She has one that married Jesse Riley. I don't know her name, and she has a boy named Joe. She has several children.
Q Where does Jesse Riley's wife live? A Right across that hill there / (Indicating.)
Q How far from Chelsea? A I expect it is three miles or four.
Q Who does she live with? A Her husband.
Q What is his name? A Jesse Riley.
Q Where does Maggie Curls live? A She lives right at the foot of that hill there? (Indicating.)
Q How far from Chelsea? A About two and a half or three miles.
Q Who does she live with? A Her husband.
Q Do you know where Joe Thornton lives? A Yes, sir.
Q Is he married? A Yes, sir.
Q Where does he live? A On Big Creek.
Q How long has he been there? A Ever since his mother left for Big Creek.
Q How long did you say that Joe Thornton had been living in the Cherokee Nation? A Ever since his father and mother moved to Lightning Creek. He never was out except across the line and then back home.
Q When did his mother move to Lightning Creek? A In the fall of '66; sometime in December, I think.
Q Do you know when Katie's daughter, who is now married to Jesse Riley, do you know how long she has been married? A No, sir, I don't know how long Maggie has been married. I don't know anything about the marriages. I know she is married. I know she lives in Vinita a while. I know she is married to Julius Curls, but don't know anything about her marriage, where she married.

Q. W. Hastings: How old are you? A About 54 years old.

Q You were about 18 years old when the war closed? A Yes, I reckon so. I might have been; I am about 54 years old now.
Q You are certain you saw this woman? A Yes, sir.
Q You are positive about that? A Yes, I am positive. I have circumstances that make it positive.
Q You were living with your mother? A Yes, sir.
Q On a place that you had made? A Yes, sir.
Q You weren't living with Aaron Wright? A No, sir.
Q Mr. Hayden was living with your mother at that time? A No, sir.
Q Wasn't Mr. Hayden and his wife, who was your mother, living about two miles from this woman? A Yes, sir.
Q Was Mrs. Hayden there? A No, sir, Mr. Hayden wasn't there.
Q How many children did she have when you first saw her there?
A She had three or four children.
Q Name them? A Maggie, and Jesse's wife, I don't know her name, and Joe and a step-boy, I forget his name.

Q You remember of seeing those four? A Yes, sir, she had those four.
Q And they were there in the fall of '66? A Yes, sir.
Q Did you testify for her five years ago that she came back in the fall of '66? A No, sir.
Q You didn't say anything then about seeing her? A Yes, sir, I said something about seeing her, and Albert Morris said she come to Big Creek in '66, and you remember it.
Q You didn't go on the stand then? A No, sir.
Q You didn't witness for her? A No, sir.
Q You were living over there two miles from her? A Yes, sir.
Q And you saw rebuttal testimony go in against her did you?
A No, sir, I didn't see any go in against her.
Q You didn't hear it? A No, sir.
Q I thought you said you was present when Albert Morris testified?
A I said I was talking down stairs with Albert Morris and you were there.
Q You didn't come up and witness for her? A No, sir.
Q She made the Madden place, did she? A Yes, sir.

Mr. Smith: How long was it before Mr. Hayden come down? A It was perhaps about six months before Mr. Hayden ever come to the Cherokee Nation, and he didn't stay no time then, he went back.

Q He himself was not there at the time you were speaking about?
A No, sir.
Q Where was Mrs. Hayden? A She was there on Lightning Creek, my mother was.
Q Is Mrs. Hayden your mother? A Yes, sir.
Q How old were these children, Jesse Riley's wife and Maggie, who is now Maggie Curle, in 1866? A They were tolerably good size girls.
Q About how old? A I don't know how old they were. Maggie was a good size girl; I remember her and I remember the step-boy; the others I don't remember much about them, but I knew Henry then and have knowed them all my life, but I never paid any attention to the children.

W. W. Hastings: How old do you think Maggie was when you first saw her? A I never paid no attention, but I know she was with her mother.

Commissioner: you say Hayden wasn't there? A No, sir, he wasn't there.

Q Would he come backwards and forwards occasionally? A Yes, sir, he would come backward and forward occasionally.

W. W. Hastings: About how often did he come back? A I guess he come back two or three times before he come back to stay.

Q You testified that you bought that place from Sam Brad?
A Yes, sir.
Q When did you buy it? A '72 or '3.
Q Did Hayden ever live down there before that time? A No, sir, my mother was there.
Q Mrs. Hayden lived up with Hayden in Kansas? A No, sir, she never did.
Q She lived right down there, did she? A Yes, sir, right where I brought her.
Q On the first place she made? A Yes, sir.
Q She lived there for seven years? A Yes, sir.

FRANK ROSS, being sworn by Commissioner Needles and examined by Mr. Smith, Attorney for Applicant, testified as follows:

Q State your name? A Frank Ross.
Q Where do you live? A I live on Lightning Creek.
Q What is your post office? A Hayden.

Q How long have you lived in the Cherokee Nation? A All my life.
Q Do you know this applicant here, Katie Thornton? A Yes, sir.
Q How long have you known her? A All my life.
Commissioner: Well how old are you? A 53.
Mr. Smith: Do you know whether she was a slave or not?
A Yes, sir, I do.
Q Was she? A Yes, sir.
Q Whose slave? A She belonged to Lewis Ross' daughter, Minta Vann.
Q Was she an Indian? A Yes, sir.
Q Cherokee Indian? A Yes.
Q Where did she live before the war? A She lived down close to Tahlequah.
Q Do you know whether Katie Thornton here was ever out of the Cherokee Nation, or what became of her during the war? A She went to Kansas during the war.
Q When did you first see her back in the Cherokee Nation after the war? A I saw her back in '66 on Lightning Creek; in the winter of '66 on the place where Bill Madden is living at now she was living.
Q Do you know where she has been living since that time? A She is living on Big Creek. After she moved from there, she moved to Big Creek.
Q Has she lived in the Cherokee Nation continuously since that time?
A As far as I know, she has; I never heard of her being our.
Q Do you know her children? A I know them when I see them. I am not acquainted with them. I am acquainted with one of them, the eldest girl, Maggie.
Q Is she married or single? A She is married.
Q To whom is she married? A Julius Curls.
Q Do you know any other of the older children over 21? A No, sir, I am not well acquainted with them. I know them when I see them; she had a boy by the name of Billy, but he is dead.
Q Any other boys that you know? A No, sir, not that I know of.
Q Are you acquqintd with any other of her girls? A Jesse Riley Riley has one of her girls, but I don't remember her name.
W. W. Hastings: Where were you living after the war? A Living on Price Creek.
Q Below here? A Yes, sir, below here.
Q This woman was living above you? A She was living on Lightning Creek; that is above me and way above me.
Q How far? A It must be 22 or three miles.
Q Did you testify for her five years ago? A No.
Q You weren't a witness for her then? A No, I wasn't; I knowed her alright, but I wasn't a witness for her.
Q Did you see her husband in '66? A Henry, yes, sir, I saw him.
Q Where were they living then? A Where Bill Madden is living now
Q What time in '66? A Along in the winter a little before Christmas.
Q Did they have a house up there? A They were fixing to build a house; they didn't have one then; I didn't see any; they were fixing to build one.
Q Well, were they in tents? A Yes, they were in a tent.
Q On the Madden place? A Right where the Madden place is now. Maddens are living in that house now.
Q Did you see any children with them? A I seen a boy, Billy, and a little girl.
Q Is that all? A That is all I noticed; I don't remember of any more.
Q How long did you stay there at that time? A Four or five days.
Q With them? A No, I was there in the neighborhood with Nelson and them.
Q Do you undertake to say you remember of seeing people 35 years ago and remember the exact dates? A Yes, sir.
Q Are you willing to swear to it? A Yes, sir.

JACK LANDRUM, being swor. by Commissioner Needles, testi fied:

W. W. Hastings: Comes now the representative of the Cherokee Nation and protests against the introduction of this witness for the reason that he was calle. and sworn and put under the rule which has been explained to all these colored people for the past week or ten days, if not longer, and this witness got up from the second bench from behind the rope in the crowd and was present during the taking of the testimony of the preceding witness, and was pretty near enough to hear the inquiries and answers made.

Mr. Smith: If the Court please, I don't know who was called and sworn.

W. W. Hastings: And the bailiff being asked by the Commissioner where he was, and he answered second seat.

Commissioner: Well you are under oath. Did you hear any part of the testimony that was given here in this case? A No, sir, I didn't.

Q Where were you during the examination of these witnesses?
A I was spy back yonder, and I can prove it.
Q Weren't you on the second bench here? A No, sir, I can prove that I wasn't.
Q Who can you prove it by? A By all the folks that are sitting back there.
Q Are you hard of hearing anyhow? A I can't hear very good.

Mr. Smith: Where were you when sworn and put under the rule where did you go? A I went back there.

Q I don't know where you went to. Who was sworn with you?
A Harry Still and Frank Ross.
Q Well where did you go when you were told to go out of hearing of the witnesses? A I went out of hearing of witnesses, but of course I was inside of the shade.
Q Did you stop at the place where you got up from when you were called? A No, sir, I went way back yonder by the side of a woman and she can tell you I didn't hear anything.
Q Where were you standing or sitting, or whatever you were doing when your name was called here to come and testify? A I was way back there. I can tell you where I was sitting. I can tell you.
Q I would like to know? A I can put you right to the place. I know the rules; I was sitting out of hearing and never heard a thing that was said here; that is right; of course, I wanted to sit in the shade.
Q Who was you sitting with, do you know? A I was sitting by the side of Buckner.
Q What Buckner? A George Buckner.

GEORGE BUCKNER, being s orn by Commissioner Needles, testified as follows:

Q What is your name? A George Buckner.
Q Do you know the witness here, Jack Landrum? A Yes, sir.
Q Where was he sitting during the examination of this case?
A Just at the very latter part of it he was sitting the second one from me. I was sitting near the north end of the second seat.
Q Did you hear any of the examination —what the witnesses said?
A No, sir, I couldn't hear a thing.
Q Do you think he could hear? A No, sir, I don't think he could.
Q He was only there at the latter part of the examination?
A Yes, sir.
Q He had been in the back part before? A Yes, sir.

W. W. Hastings: He was sitting on the second seat behind the rope? A Yes, sir.

Mr. Smith of Geneva Buckner: On what side of the tent?
A On the north side.
Q On what side of the tent is this where you are now standing?
A The south side.
Q So way on the opposite side of this tent where this testimony was being taken? A Yes, sir.

Commissioner: Mr. Witness, how far do you think it is he was?
A If I can step it, I think I will know.
Q Well step it. A About 21 feet.

W. W. Hastings: Did you step from where the witness was sitting or did you make angles? A I went around on the bench.

W. W. Hastings: The representatives of the Cherokee Nation ordinarily could not be called upon to be technical, but they remember that in this special case they asked that these witnesses be put under the rule; this witness as he testified clearly understood that he should be put under the rule and he came back and the Commission itself ought to take notice of the fact, and as testified by the bailiff within easy hearing of any witness upon this stand, and this testimony ought not to be allowed to be introduced.

Commissioner: Mr. Buckner, you say you heard none of this testimony? A No, sir.
Q And you were sitting aside of this man? A Yes, sir.

Commissioner: Go on with the witness:

Mr. Smith: State your name. A Ella Landrum.
Q What is your post office? A Hayden.
Q Where do you live? A I live on Lightning Creek, north of Hayden.
Q About how far north of Hayden? A About two miles.
Q Do you know this applicant, Ettie Thornton? A Yes, sir.
Q How long have you known her? A About thirty years or more.
Q You didn't know her before the war? A No, sir, I didn't.
Q How far does she live from you? A She lived where she form from the north I reckon to my place she located there about—close by me; I live east of her and she lives west of me.
Q Do you know who came there with her? A Yes, sir.
Q Who? A Thornton, her husband.
Q What was his name? A Henry.
Q What year was that? A That was in '66; in the fall, with others the latter part of winter kind of. It was in the winter.

W. W. Hastings: Where were you living at that time?
A I was living on Salt Creek where I am living now.
Q The same place? A Yes, sir, same place.
Q When did you move there? A In the fall of '66.
Q Had you built a house? A Yes, sir.
Q How far did she locate from you? A About a mile I guess.
Q How far did she locate from you A About a mile I guess.
Q You didn't come current destiny for her five years ago?
A No, sir, I didn't; this is the first time.
Q Were you ever tried for anything in the Courts? A No, sir.
Q You never was up before any Court? A No, not since they killed my down. When they killed me you I had the case tried down here at Pea Creek.
Q They never tried you for anything? A No, sir, never was tried for anything.
Q How far did you live from Ettie? A About two miles west of her?
Q How many children did she have when she came? A Two.
Q What were their names? A I can't remember the boy's name, and Ettie.
Q Was the owner you her child? A Yes, sir, it was the baby.

Q It was a baby when she come there A Yes, sir, I know it, and I will swear and die on it.
Q Those were the only two children she had when she come there?
A Yes, sir.
Q And her husband? A Yes, sir.
Q You are positive? A Yes, sir, I am postiive, and I will die with it.
Q Are you a preacher? A No, sir.
Q How old are you? A I am 69 years old.
Q Do you know what year the war commenced? A Why, no, sir, I can't tell you.
Q Do you know what year the war closed? A No, sir, I don't know anything about that.
Q Do you know any year? A I know one year from another.
Q You know '66, don't you? A Yes, any of us ought to know that.
Q Di you ever hear of any other year besides that? A I have heard of lots of them.
Q What other year? A August and September, July.
Q You heard of that year, have you? A Yes, sir.
Q Are those the only years you heard of except '66? A No, sir, I heard of lot of them.
Q What other year have you heard of besides '66? A There is August, September, and there is May, April.
Q Those are years are they? A No, they are months.
Q What year have you ever heard of besides '66K A Now Mr. Hastings you ought not to ask me anything like that. I am not posted on anything of that kind.
Q Did these people come in a wagon? A Yes, sir.
Q They made a house down there, did they? A Yes, sir, they did.
Q Did you help build that house? A I helped to haul the logs.
Q And you didn't come and tell it for them five years ago?
A No, sir, I didn't.
Q Do you know when any ofne of her children were born after that?
A No, sir.
Q You don't know any year since then? A No, sir, I couldn't tell you anything like that.
Q Have you got a child by the name of George? A Yes, sir.
Q How old is George? A George is 19.
Q You know what year he was born in? A No, sir, I couldn't tell you.
Q What is your next oldest child's name, next to George?
A Nancy.
Q Do you know what yeat she waw born in? A No, I couldn't tell you.
Q Do you know what year you was married in? A No, sir, don't ask me anything like that. I couldn't tell you anything like that because I can't. I couldn't tell the date.

Commissioner: You were a slave were you? A Yes, sir.

Q Did you ever go to school? A No, sir, I never did in my life.

LEWIS WHITMIRE, being sworn by Commissioner Needles, and examined by Mr. Smith, Attorney for applicant, testified as follows:

Q State your name? A Lewis Whitmire.
Q How old are you? A 62 years old.
Q Where do you live? A On Lightning Creek.
Q What is your post office? A Hayden.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life; never was out of the Cherokee Nation.
Q Are you on the roll of 1880? A Yes, sir.
Q Are you a Cherokee citizen? A Yes, sir.
Q Do you know this applicant, Katie Thornton? A Yes, sir, I know her

Q How long have you known her? A Why I have knowed her ever since she was a young woman, in slavery tijes.
Q To whom did she belong? Was she a slave? A To Dr. Thornton; she was a slave under Dr. Thornton.
Q Who was Dr. Thornton's wife? A She was a Alberty; she was John Alberty's daughter.
Q With whom, if you know, was this woman, Katie, living at the time the war commenced? A She was living with Dr. Thornton and his wife when the war commenced.
Q When did you first see this applicant, Katie Thornton, after the war? A I saw her up here on Lightning Creek.
Q Well where was that, in the Cherokee Nation or Kansas?
A It was in the Cherokee Nation.
Q When was it, what year? A It was in the fall of '66.
Q Do you know where she lives now? A Well, yes, sir; I know where she lives; she lives on Big Creek now.
Q How far from you? A It must be 15 miles, I guess, amd may be more.
Q Where was she, at what point when you first saw her? A She was living on the place where Bill Madden is living now; her husband took a claim there.
Q How long did she live at that point, or in that immediate neighborhood? A I don't remember how long he lived there beofre he sold out there and went away.
Q Do you know whether she had any children or not in '66? A I think she had three children as near as I can recollect at that time.
Q Well do you know where they are now? A I don't know where the oldest is. No, sir, I don't.
Q Were these children boys or girls? A I do know the oldest child was a boy and he died in Tahlequah after she lived up there. I know about that because I was there a week when they buried him.
Q Do you know anything about the girls? A I don't know about the girls; they moved from there and went to Big Creek and lived there.
Q Do you know whether they were ever married or not? A No, sir, I don't.

W. W. Hastings: How much of a place did they make there, Lewis?
A They made a small place.
Q About how many acres? A I guess it must have been five or six acres they broke out.
Q How long did they live there? A Something over one year before he sold out.
Q Who did he sell to? A I think Harry Still bought the claim from him.
Q And they didn't sell to Madden then? A No, I think Harry Still sold to Madden.
Q '66 has been a long time ago? A Yes, it has been a long time ago
Q Are you willing to come to the stand and testify for people when they come in and out of the country 35 years ago? Are you willing?
A If I remember and know it, of course I am willing.
Q Did you testify for this woman five years ago, were you her witness five years ago? A I expect I was.
Q Do you know? A I don't know for certain, but I think I was.
Q Ain't your memory any better than that? A Why i remember that I witnessed for her once before this.
Q That was before the Kern-Clifton Court? A I think it was either the Kern-Clifton Court or the Wallace Court one.
Q You are not positive now are you? A Why I am positive that I witnessed at one of those courts.
Q You are not positive which Court? A No, sir.
Q Well now, how many children do you think she had when you first saw her there? A Why I don't remember wool how many children she had because I didn't go around them people much, but I know the boy and the oldest girl was big enough to go to our subscription school.

Q You mean her oldest girl was old enough to go to your subscription school? A Her oldest boy and girl.
Q That was the first year after she came down there? A It was the first year and may be the second year, if I ain't mistaken.
Q How long did she live down there? A I told you how long she lived there as well as I recollect.
Q About how long then? A About two year.
Q That is your best judgment is it, Lewis? A Yes, sir.
Q And she had a boy and a girl that went to your school? A She had a boy and a girl to go to school, and they were close neighbors to the school there where they were camping.
Q Do you know what the boy's name was? A I most forget that boy's name; he has been dead so long. I think thought his name was William
Q Who taught that school? A I don't remember what person taught it; we had a subscription school though.
Q Where was the school located? A It was located right where we have a school house now.
Q What is known as the Hayden school house where we took the census five years ago? A Yes, sir.
Q The same place? A Yes, sir, only it wasn't the same house.
Q It is a box house now? A Yes, sir.
Q That was a log house then? A Yes, sir.
Q You don't remember who taught it? A Not, sir, we had so many teachers there, until we got a teacher furnished from the Nation.
Q How is your recollection about dates, is it good? A No, sir, I don't know nothing about dates, less I go out and make a trade with some man and happen to give him an offer for it, and he will date it, and I bring it home, and I know I made a certain sale at a certain date. I don't date my business; I have no education.
Q Do you know years? A I know years; I know when Christmas comes I know one year is gone.
Q That is all you know about it, is it? A Yes.

Case continued by Stenographer J. O. Rosson.

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

(Signed) E. C. Rothenberger.

Subscribed and sworn to before me this 10th day of July, 1901.

(Signed) T. B. Needles,
Commissioner.

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June 7th, 1901.

Continuation of application of Katie Thornton for the enrollment of herself and two children as Cherokee Freedmen: Former portion taken by stenographer E. C. Rothenberger.

KATIE THORNTON, the applicant, re-called, further testified:
By W. W. Hastings, Cherokee Representative:

Q What was your next child born after Georgie? A Georgie.
Q Was it a girl or boy? A It is a boy and he is dead.
Q He is dead? A Yes, sir.
Q How much older was Georgie than George? A He is about two years old.
Q What was the next child of Georgie? A The next was Katie.
Q How much older was Katie than Georgie? A He was very near two years.

Q Did you ever have a child by the name of William? A Yes, sir, the oldest was named William.
Q Was he older than Maggie? A Yes, sir.
Q How long did you live on the Maddin place? A I could not tell you, I lived there some, very near four years; somewheres between four and five I could not tell you, I lived there a good little while
Q where did William die? A He died down at Tahlequah.

COL'R NEEDLES: Katie Thornton applies for the enrollment of herself and her two children, Millie and Emma. She cannot be identified upon the authenticated roll of 1880 or the census roll of 1896. She is duly identified upon the Kern-Clifton r oll and wallace roll. Her two children are identified upon the Kern-Clifton roll. They make satisfactory proof as to residence and will now be listed for enrollment as Cherokee Freedmen on a doubtful card, and she will be duly notified by mail of the decision of the Commission when arrived at.

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(Signed) J. O. Rosson.

Subscribed and sworn to before me this 15th day of June, 1901.
(Signed) T. B. Needles,
Commissioner.

---oooOOOooo---

J. O. Rosson, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he made the foregoing copy and that same is a true and complete copy of the original transcript of the testimony and proceedings in the above case.

J. O. Rosson

Subsdribed and sworn to before me this 21st of August, 1901.

Commissioner.

File with case of Lettie Lynch, C.F.-D.#683.

Supl.C.F.-D.#678.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., OCTOBER 26th, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of KATIE THORNTON, ET AL., as Cherokee Freedmen, introduced on part of the Cherokee Nation:

Appearances:
Mallette & Smith, Attorneys for Applicants;
Mr. Hastings, of Counsel for Cherokee Nation.

W. A. JOHNSON, being duly sworn by Commissioner Needles, testified as follows on part of the Cherokee Nation.

MR. HASTINGS: What is your name? A W. A. Johnson.
Q What is your age, Mr. Johnson? A 71 years.
Q What is your post office? A Garnett, Kansas.
Q How long has that been your post office? A Since '58.
Q Were you acquainted with a colored man by the name of Henry Thornton? A Yes, sir, I was.
Q Did you know his wife? A I knew he had a wife and knew her, but I don't know her first name.
Q I will ask you what was Henry Thornton's physical condition?
A He was a cripple, he walked with one crutch.
Q What was his occupation? A He was a shoemaker.
Q How long did you know him there in Garnett after the war?
A Five or six years.
Q About when did you first learn to know him? A I am not certain when I first knew him, it was '66 or '67, somewhere along there is when he first came there.
Q Do you remember about the time that the colored people were allowed to vote in Kansas? A Yes, sir.
Q About when was that? A I think it was in '70.
Q Do you know whether or not Henry Thornton was there at that time?
A He was there during the time we were holding an election to amend our Constitution with reference to the question of suffrage.
Q When was that? A That was in '68, and I think he remained there about two years after that.
Q Did you know anything about his family? A No, I did not, in particular, about them.
Q I believe you say he was a cripple? A Yes, sir.
Q Walked on a crutch? A Used a crutch in getting around.

MR. SMITH: Mr. Johnson, it was either in '66 or '67 that you first knew him? A Somewhere along there I would not be positive.
Q Might have been '68? A I think I knew him a little earlier than '68.
Q But you can't be positive about that? A No, but I am positive about my knowledge of him in '68.
Q But back of that you are not positive? A Not when I first knew him, he worked in the shoeshop there with Mr. Sutters.
Q You don't know anything about his family? A I know he had a family.
Q How do you know that? A I have seen his family.
Q Upon how many occasions did you see him in '68, except the one you mentioned in your testimony in chief? A Why I evidently saw him every day.
Q You think then you saw him every day during the year 1868?
A Every day that I was around town.
Q Well, you think he was around town there every day you were?
A Why, I think so.

Q You don't know that? A I never missed him.
Q You don't know that? A No, of course; there is a fact that exists that I recollect certain about his being there in 1868.
Q Well, tell that? A From having him as a witness in a suit there between two of our citizens and the peculiarity of his testimony, of which I am positive.
Q What suit was that? A It was a suit between Henderson Cavinder and Sam Fulinwider.
Q Have you looked up the record to see when that was? A No, sir.
Q Do you know that occurred in 1868? A I know it occurred in '68 from the fact it was during the time we were discussing the question of amendments of our Constitution, from the conversation which took place between Cavinder and Henry Thornton.
Q You don't know whether the Katie Thornton who is an applicant in this case is in any way connected with the ~~women~~ you are talking about? A No, I do not.

Taking of testimony continued by stenographer Chas. von Weise.

---oooOOOooo---

J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this November 12th, 1901.

Commissioner.

( Continued from stenographer John O. Rosson, at Vinita, I.T. Oct. 26, 1901 )

WILLIAM RAY (being first duly sworn by Com'r T. B. Maddux, testified as follows for the Cherokee Nation

( By W. W. Hastings )

Q What is your name? A William Ray.
Q What is your age? A 63 past.
Q What is your post office address? A Garnett, Kansas.
Q How long have you lived in Garnett, Kansas? A Ever since '67 or '8.
Q I will ask you if you knew a colored man there by the name of Henry Thornton? A Yes sir.
Q In Garnett Kansas? A Yes sir.
Q Did you know his wife, Katie? A Yes sir.
Q Did he have any family then? A Yes sir.
Q Do you remember any of the names of the members of his family, the children ? A I dont recollect them at present , I dont know as I can call them.
Q What did Henry Thornton do? A He worked in a shoe shop.
Q Do you remember whose shoe shop it was he worked in? A Barney Setters if I am not mistaken.
Q Do you know when Henry Thornton and his wife Katie left there? A I know when they left ,it was in '71.
Q What day in '71? A The first day of March, if I am not mistaken and I know I am not.
Q You know you are not? A Yes sir.
Q Who left with them? A My Brother in law and sister.
Q Where did they go to? A They said they was coming to the Cherokee Nation.
Q Had you seen Henry Thornton, the husband of Katie, frequently while they were living there at Garnett, Kansas? A Yes sir.
Q How frequently did you see him? A Well, at that time I was in town doing work around there and I saw him passing the shop very frequently.
Q Did you ever miss him for any length of time until he left there? A No sir.
Q How long was it after you came there before you became acquainted with him? A I can't just tell exactly what time, somewhere in about 3 or 4 months, 5 or 6 anyway.
Q Short time after you come there? A Yes sir.

( By Smith )

Q What time did you come there in '68? A In June.
Q How long then was it before he became acquainted with this man? A I cant say the date, 3, 4 or 5 months after.
Q Might have been sooner than that? A Might have been sooner and it might have been longer.
Q Might have been longer than that? A Yes sir.
Q You had no acquaintance with him before that time? A No sir.
Q Where did you ever see this man's wife——first? A That is something I dont know as I can speak where I first saw her; they lived on 7th Street when I first knew them, as to the time and date I cant say.
Q 7th street in Garnett, Kansas? A Yes sir.
Q How large was Garnett then? A Oh a small place.
Q How many stores? A 3 or 4.
Q Do you mean to say that they had the streets numbered then? A I think west and east they had numbered them——seems as if commences at first Avenue and runs to 7th.
Q Do you know when they first commenced to number them? A No sir
Q You dont know if it was 7th street then or not? A It was on what they calls 7th street now.
Q You dont know where these people lived before you met them? A No sir, how could I?
Q You dont know if they were there all the time from the time you met them until they left do you? A No sir I cant say as to that, not all the time I cant.
Q You know that they left one time the first of March? A Yes sir

Q What makes you say it was the first of march? A Because I can prove it was the first of March.
Q How can you prove it? A I can prove it by identification; I dont know if the Colonel can recollect the date or not; if you want me to tell how I know it I will tell you.
Q I dont want to know how you can find it out at some other time,but how you know it now? A On or about two or three days before the first of March,John Tyler, my brother in law lived in the same block I did, Henry Thornton lived in the same block I did, and they both sold out on that day and fixed up their papers in Garnett and I can prove what I say; they sold to a man that lived in the same block, and I know I bid them good bye; my father started down here with them on the first day of March.
Q Have you examined the records since that time to find out when it was? A I dont know as I have, I looked up some back taxes once or twice and I found out it was a fact; I sometimes by in property for taxes.
Q You just remember anyhow that it was the first of March? A I know it is a fact,Mr. Smith.
( By Hastings )
Q From the time you first knew him until he left you never missed him did you? A No sir I saw him every once in a while.
Q He owned property there did he? A He did.
Q And it was about that time that he sold it? A Yes sir.

HARRY STILL being first duly sworn by Com'r T. B. Needles, ~~testified as follows on the part of~~ is recalled by the Cherokee Nation for further cross-examination:

( By Mr. Hastings )
Q What was Katie Thornton's husband's name? A Henry.
Q What was Henry's occupation? A Farmer.
Q Was he a shoemaker? A Not as I know of.
Q Was he a cripple? A Yes sir.
Q Walked on a crutch? A Yes sir.
Q You never knew him in Garnett,Kansas? A No sir.
Q He was a cripple? A Yes sir.

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This will be filed in the original application in Cherokee Freedmen Doubtful cases, D-578; D-579; D-580;D-581;D-582 and D-585.

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Chas. von Weise, being first duly sworn states hat as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and thatthe foregoing is a full, true and correct transcript of his stenographic notes therein.

(Chas von Weise)

Subscribed and sworn to before me this 28th of October, 1901.

C. R. Breckinridge
Commissioner

Freed D 880

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Melicte A Smith, Cherokee Nation, by W. W. Hastings:

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Moses Whitmire, Trustee for the Freedmen, vs The Cherokee Nation, No. 17209 filed in the Mariah Hayden case F D 498, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and if it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Lottie Lynch, D 885;

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree, because, First: It does not tend to show that the applicant was a citizen of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission will take judicial knowledge of all laws, treaties and decrees necessary for the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the name is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named with the exception of those which came within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court of the Northern District, Indian Territory.

By Mr. Smith:

The applicant further moves that as to the above named cases including the Mariah Hayden case that counsel for the applicant be allowed thirty days to file any and all proof or any or all of the report other than the decree already referred to.

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings;

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd day of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of the attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

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I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath state that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and sworn to before me this July 29, 1902.

P. G. Reuter
Notary Public.

WSDM

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.
October 23, 1906.
Cherokee Freedman Rejected No. 414.

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In the matter of the enrollment of Lottie Lynch,

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LOTTIE VANDERFORD, being duly sworn by John E. Tidwell, testified as follows:

BY COMMISSIONER:

Q State your name? A Lottie Vanderford.
Q What is your age? A 25.
Q What is your postoffice address? A Wimer.
Q Are you a claimant to enrollment as a Freedman citizen of the Cherokee Nation? A Yes sir.
Q What is your father's name? A Albert Webb.
Q What is your mother's name? A Maggie Curls.
Q Under what name were you enrolled? A Lottie Lynch.
Q Are you married? A Yes sir.
Q What is your husband's name? A Albert Vanderford.
Q Is he a citizen of any of the Five Civilized Tribes? A No sir.
Q When were you married to him? A I don't know, February, it will be five years this February coming, 25th I think.
Q That would be in February of 1902? A Yes sir, I guess so.
Q Are you and your husband living together at the present time? A Yes sir.

---

Mabelle Cohenour, stenographer to the Commissioner to the Five Civilized Tribes states on oath that she reported the proceedings had in the above entitled cause on the above named date, and that the foregoing is a true and correct transcript of her stenographic notes taken in said cause on said date.

Mabelle Cohenour

Subscribed and sworn to before me this 23rd day of October, 1906.

B. P. Ramsey
Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Katie Thornton et al., as Cherokee freedmen, consolidating the applications of

| | | | |
|---|---|---|---|
| Katie Thornton et al | Cherokee | Freedmen | D 378 |
| Maggie Curls | " | " | D 380 |
| Joseph Thornton et al | " | " | D 381 |
| Eliza Thornton et al | " | " | D 382 |
| Lottie Lynch et al | " | " | D 383 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee freedmen were made to this Commission by Katie Thornton for herself and her minor children, Millie and Emma Thornton; by Maggie Curls for herself; by Joseph Thornton for himself and his minor child, Ethel Thornton, and subsequent to the date of his original application a birth affidavit shewing the birth of James Alven Thornton was filed and is made a part of the record herein; by Eliza Thornton for herself and her minor child, Bessie Williams, and by Lottie Lynch for herself and her minor children, Herbert Curls and Sedalia Riley.

The evidence shows that the applicant Katie Thornton was the slave of a Cherokee citizen at the commencement of the rebellion, and that she was taken out of the Cherokee Nation during the rebellion. She states that she returned to said nation in the fall of 1866, with Peter Meigs and family; but this Commission has found in the case of Elizabeth Meigs, Cherokee Freedmen D 891, that though Peter Meigs, himself, returned to said nation prior to January 19, 1867, he did not bring his family with him until a subsequent trip made in the spring of 1867. Hence, it appears that Katie Thornton who came with said family, did not return to the Cherokee Nation until after January 19, 1867.

The evidence further shows that the applicants Millie, Emma, Joseph, Ethel, James Alven and Eliza Thornton, Maggie Curls, Bessie Williams, Lottie Lynch, Herbert Curls and Sedalia Riley, are the descendants of said Katie Thornton, born since the commencement of the rebellion, and have no rights as Cherokee freedmen except such as they may have acquired through her. None of the names of the applicants herein, are found on the 1880 authenticated Cherokee roll.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alven Thornton, Eliza Thornton, Bessie Williams, Lottie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen should be denied, under the provisions of section twenty-one of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Signed. Tams Bixby, Chairman.
" T.B.Needles, Commissioner.
" C.R.Breckinridge, Commissioner.
" W. M. Stanley, Commissioner.

Muskogee, Indian Territory,
this Mar-5 1904

IN THE MATTER OF THE APPLICATION

FOR THE ENROLLMENT OF

SEDALIA RILEY

A F F I D A V I T.

STARR & PATTEN,

ATTORNEYS FOR APPLICANTS.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

# P E T I T I O N

Comes now Sedalia Riley and petitions the Honorable Commissioner to the Five Civilized Tribes to consider her application for enrollment as a Cherokee Freedman on the side of both of her ancestors. The commissioner is requested to consider what rights that she might have as an illegitimate daughter of David Riley, now deceased, who was a son of Moses Riley, the principal applicant in the Cherokee Freedmen consolidated case of Moses Riley, et al.

Respectfully,

Starr & Potter

ATTORNEYS FOR SEDALIA RILEY.

United States of America,
Indian Territory
Northern District SS

Lottie Vanderford, of lawful age being duly sworn on her oath deposes and says:

"My name is Lottie Vanderford, my age is Twenty-six years and my post Office is Wimer, Indian Territory. Sedalia Riley an applicant for Enrollment as a Freedman of the Cherokee Nation is my illegitimate child and is now an applicant for enrollment and her case is in the consolidated Cherokee Freedmen Enrollment case of Katie Thornton et al. Said child is now Ten years old and is in my care and custody. The father of Sedalia Riley was David Riley now deceased and the said David Riley was a son of the applicant Moses Riley. I was lawfully married to the said David Riley by a Methodist Preacher by the name of Tipkin and I lived with the said David Riley until his death. I therefore pray the Department to consider the rights of Sedalia Riley to Enrollment as a Cherokee Freedman on both her fathers side and the side of hermother. In the event the application for the enrollment of Moses Riley et al is allowed by the Department then Sedalia Riley ought to be enrolled because she is the Grand Daughter of Moses Riley.

Lottie Vanderford

Subscribed and sworn to before me this 5th day of February 1907.

O. D. Smith
Notary Public.

Commission Expires Dec. 4, 1909

*IN THE MATTER OF THE ENROLLMENT OF CITIZENS OF THE CHEROKEE NATION.*

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } ss.

# Proof of Service.

JESSIE PATTEN of lawful age, being duly sworn, says that she deposited in the United States Postoffice, at Vinita, Indian Territory, an envelope to be duly registered containing a copy of the Argument or Instrument hereto attached. Said envelope to be duly registered to W. W. HASTINGS at Muskogee, Indian Territory, as shown by the receipt of the postmaster hereto attached. Which said postoffice is shown [redacted] to be the postoffice of the party to whom said envelope was mailed.

Jessie Patten

Subscribed and sworn to before me this 17th day of February, 1907 [redacted].

Commission Expires Dec. 4, 1909

O. M. Mauck
Notary Public.

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X 15,583.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

JUN 26 1901

ACTING CHAIRMAN.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 26th, 1901.

Received of the Commission to the Five Civilized Tribes, one copy of the original testimony of June 7th, 1901, in the matter of the application of Lottie Lynch et al for enrollment as Freedmen of the Cherokee Nation.

Mellette & Duncan

Attorneys for Applicants.

Cherokee F. #D583.

COPY.

Cherokee Freedmen
D 563

Muskogee, Indian Territory, March 21, 1904.

Lottie Lynch,

Chelsea, Indian Territory.

Dear Madam:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 8, 1904, in the consolidated case of Katie Thornton, et al., rejecting, among others, your application for the enrollment of yourself and your two minor children, Herbert Curls and Sedalia Riley, as Cherokee freedmen. There has heretofore been furnished your attorney, Edgar Smith, Vinita, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him and copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Encl. V-60

Registered.

Cherokee Freedmen
D 878, 880, 881,
882, 883.

Muskogee, Indian Territory, March 21, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alven Thornton, Eliza Thornton, Bessie Williams, Lettie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Encl. V-62

Cherokee Freedmen
D 378, 380, 381,
382, 383.

Muskogee, Indian Territory, March 21, 1904.

Edgar Smith,

Attorney for Katie Thornton, et al.,

Vinita, Indian Territory.

Dear Sir:

There is herewith inclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alvon Thornton, Eliza Thornton, Bessie Williams, Lottie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen. You have heretofore been furnished a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Encl. V-C

Registered.

Cherokee Freedmen
D 578, 580, 581,
582, 583.

Muskogee, Indian Territory, March 21, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Katie Thornton, et al., including the Commission's decision dated March 5, 1904, rejecting the applications for the enrollment of Katie Thornton, Millie Thornton, Emma Thornton, Maggie Curls, Joseph Thornton, Ethel Thornton, James Alven Thornton, Eliza Thornton, Bessie Williams, Lottie Lynch, Herbert Curls and Sedalia Riley as Cherokee freedmen.

Respectfully,

Commissioner in Charge.

Encl. V-63

Through the

Commissioner of Indian Affairs.

COPY

Refer in reply to the following

Land 20179-1904.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, June 9, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose herewith, a report from the Commission to the Five Civilized Tribes, dated March 21, 1904, transmitting the record of the applications for enrollment as Cherokee Freedmen of Katie Thornton, and her minor children Millie and Emma Thornton; by Maggie Curls for herself; by Joseph Thornton for himself and his minor children Ethel and James Alven Thornton; by Eliza Thornton for herself and herminor child, Bessie William, and by Lottie Lynch for herself and her minor children, Herbert Curls and Gedalia Riley.

March 5, 1904, the Commission found that the claimants were not entitled to enrollment as Cherokee Freedmen.

The evidence shows that the applicant, Katie Thornton, was the slave of a Cherokee citizen at the commencement of the war of the Rebellion and that she was taken out of the Cherokee Nation during the rebellion. She states that her oldest child, Maggie was born in the year 1865 in Kansas, and that she returned to the Cherokee Nation in the fall of 1866.

Her witness, Harry Still, swears that he saw the applicant, Katie Thornton, in the Cherokee Nation in the fall of 1866,

and that she had with her Maggie and two or three younger children of her own. Her witness, Lewis Whitmire, swears that he saw the applicant, Katie Thornton, in the Cherokee Nation in the fall of 1866, and that she had three children and the oldest two went to school. With the oldest child of the applicant, Katie Thornton, born in 1865, it is not deemed probable that she arrived in the Cherokee Nation with three children in 1866.

The applicants, Millie, Emma, Joseph, Ethel, James Alven and Eliza Thornton, Maggie Curls, Bessie Williams, Lottie Lynch Herbert Curls and Sedalia Riley are descendants of the applicant, Katie Thornton and were born in 1865 and since, and have no rights as Cherokee Freedmen, except such as they may have acquired through her.

None of the names of the applicants are found on the 1880 authenticated Cherokee Roll.

In view of the record the approval of the Commission's decisionadverse to the applicants is recommended.

Very respectfully,

A.C. Tonner,

Acting Commissioner

M.M.M.

W.

D.C. 21477-1904

I.T.D. 4736-1904

L R S

COPY

W.C.F.

J.P.

THE

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 21, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

March 21, 1904, you transmitted the record in the consolidated case embracing the applications of Katie Thornton, et al., ( I.T.D-578 et al), for enrollment as Cherokee freedmen, including your decision of March 5, 1904, rejecting said applications.

Reporting in the matter June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed herewith.

The Department concurs in said recommendation, and your decision, in so far as it rejects the applicants, is affirmed.

Respectfully,

(Signed) E.A. Hitchcock,

Secretary.

1 inclosure.

M09

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

WM. O. BEALL,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee Freedmen,
D-583.

Muskogee, Indian Territory, June 29, 1904.

Lottie Lynch,

Chelsea, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision, dated March 5, 1904, rejecting, among others, your application for the enrollment of yourself and your two minor children, Herbert Curls and Sedalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen,
D-518, 520, 521,
522 & 523.

Muskogee, Indian Territory, June 30, 1904.

Edgar Smith,
Attorney for Katie Thornton, et al.,
Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie, Willie, Emma, Joseph, Ethel, James Alvan and Eliza Thornton, Maggie and Herbert Curlo, Bessie Williams, Lottie Lynch and Sadalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen,
D.878,880,881,
882 & 883.

Muskogee, Indian Territory, June 29, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated March 5, 1904, in the consolidated case of Katie Thornton, et al., rejecting the applications for the enrollment of Katie, Millie, Emma, Joseph, Ethel, James Alvon, and Edna Thornton; Maggie and Herbert Curls; Bennie Williams; Lottie Lynch; and Cedalia Riley, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Muskogee, Indian Territory, February, 15, 1907.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith a motion filed June 11, 1906, by Starr & Patten, Vinita, Indian Territory, for a rehearing of the consolidated Cherokee freedmen case of Katie Thornton et.al. The reply of the Attorney for the Cherokee Nation to this motion, filed July 5, 1906, is also enclosed. July 21, 1906, there was filed by attorneys for [redacted] an amended motion for rehearing.

The decision of the Commissioner to the Five Civilized Tribes dated March 5, 1904, rejecting the application for the enrollment of the applicants embraced in the consolidated Cherokee freedman case of Katie Thornton et.al. was affirmed by the Department June 21, 1904 (I.T.D. 4736-1904).

Unquestionably the motion for a rehearing of this case is without merit.

Attached to the motion for rehearing is what purports to be sworn statements by F. M. Maxedon, who states that he was living in Anderson County [redacted], in the year 1866; that he knew Henry Thornton; that Henry Thornton and his wife separated, and that his wife "came to the Cherokee Nation, Indian Territory, in the fall of 1866." It is also supported by the affidavits of

Leander, Joe, and Tobias Bean.

Attached to the amended motion for rehearing are affidavits by Betsy Whitmire, Eliza Whitmire, Tobias Bean and Arthur Bean, all of whom sign by mark, and the affidavit of said J. M. Johnston.

J. M. Johnston, whose postoffice address is Garnett, Kansas has testified for Starr & Patten in several Cherokee freedman cases, as have Betsy Whitmire and Eliza Whitmire. The other parties to the affidavits in support of this motion have testified in practically every Cherokee freedman case tried before the Commissioner in the last eighteen months, in which Messrs. Starr & Patten have appeared as attorneys.

The statements contained in the affidavits are general, and merely state that Katie Thornton returned to the Cherokee Nation and established a residence therein in 1866.

Katie Thornton swore that she returned to the Cherokee Nation after the war of the rebellion, with her husband, Henry Thornton. The Cherokee Nation introduced W. A. Johnson, of Garnett Kansas, who swore that he became acquainted with Henry Thornton in 1866 or 1867, and that he continued to reside in Kansas until about 1870, and also William Ray of Garnett Kansas, who swore that Henry Thornton and his wife left the state of Kansas, in company with his brother-in-law and sister, on the first day of March, 1871. It will be seen that the statement in the affidavit of J. M. Johnston to the effect that Henry Thornton and his wife separated, and that his wife came to the Cherokee Nation in 1866, is directly contradictory to the sworn statement

of Katie Thornton herself.

There is nothing to show that the evidence now sought to be be introduced is newly discovered, or that with due diligence the same could not have been secured when the case was heard before the Commissioner nor is there anything to show that the motion is not made for the purpose of delay. Following the rulings of the Department of September 26, 1906 (I.T.D. 18464-18068-1906), in the Cherokee freedman case of Jennie Martin et. al, and of March 24, 1906, (I.T.D. 2758-1905, 6206-1903), in the Cherokee freedman case of Ann Johnson et. al., itis respectfully recommended that the motion be denied.

Respectfully,

Through the

Commissioner of Indian Affairs.

Commissioner.

Encl. B-15

L M B

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

LAND.
15621-1907.
15352- "

WASHINGTON. February 27, 1907.

(COPY)

The Honorable,

The Secretary of the Interior.

Sir:

Referring to Departmental letter of February 13, 1907, denying motion for review of Departmental decision of August 2, 1905, in Cherokee freedmen case of Katie Thornton, et al., I have the honor to transmit herewith a communication from Commissioner Bixby, dated February 13, 1907, enclosing motion filed June 11, 1906, by Starr & Patton, Vinita, I.T., for a rehearing of the consolidated Cherokee freedmen case of Katie Thornton, et al.

This motion is wholly without merit, as there is nothing to show that the evidence now sought to be introduced is in any way newly discovered or that with due diligence it could not have been secured when the case was heard before the Commission originally, nor is there any showing made that the motion was not for the purpose of delay. It is recommended that it be denied.

The record in the case is transmitted herewith.

Very respectfully,

C. F. Larrabee,

Acting Commissioner.

EMB--ED.

W.H.M.
C.R.W.

DEPARTMENT OF THE INTERIOR,

D.C. 12667-1907.
I.T.D.5738-1907.
LRS.

WASHINGTON. March 2, 1907.

DIRECT.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

February 27, 1907 (Land 16332), the Indian Office transmitted your report of February 13, 1907, forwarding a motion for review in the Cherokee freedmen case of Katie Thornton, et al., and concurred in your recommendation that the motion be denied.

The Department also concurs in your recommendation, and the motion is accordingly denied.

A copy of Indian Office letter is enclosed for your information. All the other papers in the case have been returned for the files of the Indian Office, together with a carbon copy hereof.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

1 enclosure, and
7 enclosures to Ind. Of.,
with copy hereof.

A. F. Mc.
~~3-2-07.~~

Muskogee, Indian Territory, March 15, 1907

Starr & Patten,

Vinita, Indian Territory.

Gentlemen:

In reply to your letter of February 12, 1907, in connection with the Cherokee Freedman case of Sedalia Riley, you are advised that the Commissioner's decision dated February 28, 1907, rejecting, among others, the application for her enrollment as a Cherokee freedman was affirmed by the Secretary of the Interior March 1, 1907.

Respectfully,

L M B

Commissioner

975

REFER IN REPLY TO THE FOLLOWING:

Cherokee P.R.414

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, April 1, 1907.

Lettie Lynch,

Chelsea, Indian Territory.

Dear Madam:

You are hereby advised that the motion filed for a re-hearing by your attorneys, Starr & Patton, Vinita, Indian Territory, June 11, 1906, in the matter of the application for the enrollment of yourself and minor children, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

Respectfully,

Geo. L. Rogers

Commissioner.

EPI

Cherokee N.R.
410 et al.

Muskogee, Indian Territory, April 1, 1907.

Starr & Patton,
Attorneys for Katie Thornton, et al.
Vinita, Indian Territory.

Gentlemen:

You are hereby advised that the motion filed for a rehearing by you June 11, 1906, in the matter of the application for the enrollment of Katie Thornton, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Enc 1-2 Commissioner.
MPI

Cherokee F.R.
410

Muskogee, Indian Territory, April 1, 1907.

W. W. Hastings,
Attorney for the Cherokee Nation,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motion for a re-hearing filed June 11, 1906, by Starr & Patten, Attorneys, Vinita, Indian Territory, in the matter of the application for the enrollment of Katie Thornton, et al, as Cherokee freedmen, was denied by the Secretary of the Interior, March 2, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Geo. D. Rodgers.

Commissioner.

Enc 1-2.
KPI

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date JUN 7 - 1901

Post Office Tahlequah, I. T.

District COOWEESCOOWEE.

1. Name ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father Lovelyn Citizenship .....

Mother Lottie Lynch Citizenship .....

2. Name of wife Lottie Lynch Age 20

Owner's name ..... Citizenship .....

Year N.C. Page 141 No. 3516 District COOWEESCOOWEE.

Parents:

Father Albert Riley Citizenship Cherokee

Mother Margie Fowler Citizenship "

Names of Children:

3. Herbert Lewis Year ..... Page ..... No. ..... Dist. .....

4. Sedalia Riley Year ..... Page ..... No. ..... Dist. .....

5. ..... Year ..... Page ..... No. ..... Dist. .....

6. ..... Year ..... Page ..... No. ..... Dist. .....

7. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

10. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by Atty Stenographer L. O. Rosson

I am K C Ruff as Lottie Riley &
I am Wallace Ruff 140 No 2971, Lottie
Thornton COOWEESCOOWEE.

1-3 Birth certificates required

Represented by Millette & Smith - Vinita I.T.

Enf to ID 598

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mrs. Lottie Lynch,
Chelsea, I. T.
Cherokee F-D-583
Register.

Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

MUSKOGEE APR 2 5-PM 19 IND.T. 07

CHELSEA MAY 21 4 PM 1907 IND.T.

FOR PRIVATE USE $300

RETURNED UNCLAIMED

Lottie Lynch,

Chelsea, Indian Territory.

I PH14

ment of the Interior.
...to the Five Civilized Tribes,
...KOGEE, IND. TER.

MUSKOGEE JUN 29 5 — P 1904

FOR PRIVATE USE $300

Lottie Lynch's Waiting

Chelsea,

Indian Territory.

R414

Cher. Fr. R. 415

See Cher. Fr. R. 416

Cher. Fr. R. 415

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the motion to readjudicate the application of George Bell, et al., for enrollment as Cherokee freedmen, consolidating the applications of:

George Bell.....Cherokee Freedmen D 706,
July Bell.....Cherokee Freedmen D 1021.

Reply of the Cherokee Nation.

The record in this case shows that the applicants were rejected by the Commission on March 5, 1904, and that on June 21, 1904, the decision of the Commission to the Five Civilized Tribes was affirmed by the Secretary of the Interior.

The testimony clearly shows that the applicants did not return to the Cherokee Nation after the war from the State of Texas until some time in May of 1867, too late to qulaify under the treaty of 1866, which as construed by the Court of Claims required them to return by February 11, 1867. Therefore, according to their own testimony they are not entitled to be enrolled. Section 3 of the Act of April 26, 1906 (Public No. 129), provides:

"The roll of Cherokee freedmen shall include only such persons of African descent either free colored or the slaves of Cherokee citizens, and their descendants, who were actual, personal bonafide residents of the Cherokee Nation August 11, 1866, or who actually returned and established such residence in the Cherokee Nation on or before February 11, 1867."

Now, it is not contended on behalf of the applicants that they actually returned and established a residence in the Cherokee Nation prior to February 11, 1867.

It is contended, however, on behalf of the applicants that theywere minors, but neither the treaty nor section 3 of the Act of Congress above quoted makes any exception whatever in behalf of minors. Like the Act of June 28, 1898, no exception was made in behalf of minors and the Department in no case has made any exception against the limitation upon the time of return of minors. By reference to the opinion of Assistant Attorney General rendered December 26, 1905, it will be observed that the

Assistant Attorney General is asked, "Is there to be any distinction made between adults and minors who failed tolocate permanently in the Cherokee Nation prior to June 28, 1898" and in reply says:

"The Act of June 28, 1898, among other things, provided that 'no person shall be enrolled who has not heretofore removed to and in good faith settled in the nation in which he claims citizenship.' This provision is in the nature of both a limitation and a condition precedent to the right claimed and is similar in purpose and effect to the limitation considered by this office in the opinion of June 6, 1901, in cases of Nancy B. Smith and Lottie B. Adams. As nothing existed in the legislation of congress exempting minors or insane persons from its operation the limitation was held to operate upon them. The provision now under consideration is entirely analogous: It was held operative against adults by my opinion of December 20, 1903, in case of Allie Williams and of March 12, 1904, in case of Mary L. Strickland, and as to minors that is the necessary implication and effect of my opinion of June 11, 1905, in the case of Alice L. Owen."

As

The Assistant Attorney General held as above quoted: Nothing existed in the legislation of congress exempting minors or insane persons from its operation, the limitation was held to operate upon them, and we insist that nothing exists in the 9th Article of the treaty of 1866 or Section 3 of the Act of congress approved April 26, 1906 (Public No. 129), exempting minors from being required to return and permanently locate in the Cherokee Nation prior to February 11, 1867; that the limitation must of necessity be held to operate against them.

For the reasons hereinabove assigned, we submit that the motion to readjudicate filed herein should be denied.

Respectfully submitted,

W. W. Hastings

Attorney for the Cherokee Nation.

To be filed in case of July Bell, CFD-1021.

Department of the Interior,
Commission to the Five Civilized Tribes,
Chelsea, I. T., June 12th, 1901.

In the matter of the application of George Bell for enrollment as a Cherokee Freedmen; said Bell being sworn and examined by Commissioner T.B.Needles, testified as follows:

Q What is your name? A George Bell.
Q How old are you, Mr. Bell? A I am about 41.
Q Whatis your post office address? A Hayden.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes, sir.
Q Who do you want to enroll besides yourself? A My wife and four children.
Q Whatis your wife's name?A Margaret.
Q How old is she? A She is about 27.
Q What is the names of yourchildren? A My oldest one is Beatrice, seven years old
Q [illegible]
Q [illegible]
Q What is the name of the next chid? A Ord.
Q How old is Ord?A Five years old; George Dewey.
Q How old is George Dewey? A Three years old.
Q The next one? A Beulah.
Q How old is Beulah? A She is about five months.
Q Do you apply for your wife? A Yes, sir.
Q Is your name on the roll of 1880? A No, sir, I think not.
Q Is your name on any of the rolls of the Cherokee Nation?
A Yes, sir.
Q On what roll? A On the Wallace roll and J.C.Roll.
Q Is your wife's name on the roll of 1880? A No, sir.
Q Is her name on any of the rolls of the Cherokee Nation?
A On the Wallace and Clifton.
Q What was your father's name?A His name was Armstead, but his surname I don't know.
Q What was your mother's name? A Anika.
Q Is your father living? A No, sir, the last account I had of him he was.
Q What was your wife's father's name? A Harry Daniels.
Q Is he living? A No, sir.
Q Whatis her mother's name?A I don't know her mother's nam.
Q Who does your wife claim her citizenship through, hr father?
A Yes sir.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examin d and applicant's n me not found thereon.

The Vern-Clifton Roll of citizens of the Cherokee Nation examined and names ofapplicants found thereon as follows:
Page 183, #4602, George Bell, Cooweescoowee District.
Page 183, #4691, Margaret Daniels, no district given.

Q Did you draw foryour children? A No sir.

The Wallace roll of Freedmen of the Cherokee Nation examined and names of applicants found thereon as follows:
Page 105, #2202, George Bell, Cooweescoowee District;
Page 102, #3347, Margaret Daniels, no district given.

Q What was your wife's mother s name? A I don't know her name.
Q Were you a slave, born slave? A Yes, sir, born slave.
Q To whom did you belong? A I belonged to Mr. Bell'sfamily.
Q What Bell? A L.B.Bell, that is here.
Q Were you taken out of the Cherokee Nation during the war?A Yes, sir he taken me out.
Q When did you come back? A He brought me back.

Q When? A About '67 he says, I have to take his word for it, I don't know.
Q Take whose word for it? A Mr. Bell here.
Q Which mr. Bell? A Mr. L.B.
Q Was your father a slave? A I think he was.
Q Was your father south? A Yes, sir.
Q Was your mother taken out at the same time you were? A Yes, sir, she died in Texas.
Q You were taken to Texas? A Yes, sir.
Q Have you any witnesses as to your return? A I have here, Mr. Bell.

L.B.BELL, being sworn and examined by Commissioner T.B. Needles, testified as follows:

Q Your name is L.B.Bell; 62, post office, Vinita.
Q Mr. Bell, you are a Cherokee citizen by blood? A Yes, sir.
Q Do you know the applicant, George Bell? A Yes, sir.
Q Was he a slave before the war? A Yes, he was a slave, he belonged to me.
Q Well, was he taken out of the country? A '61, and he was about two years old; he was taken to Texas.
Q When did he return, Mr. Bell? A Well he come back here in May, 1867, about the first of May I reckon I got into this country. I brought him back. There were two of them orphan children, the mother died and the father belonged to some body else.
Q Have you known him evr since that time? A Yes, he lived with me until he got big enough to make a living himself, he is about 41 years old.
Q Has he always lived in the Cherokee nation? A Yes, he has been here since '67.
Q Do you know his wife, Margaret? A No, sir.
Q How old was he when he returned Mr. Bell? A Well, from '61, I guess he was seven or eight years old.
Q Where was his father and mother? A His mother she died, I took her to Texas and she died therewhile he was a very small boy.
Q What became of his father? A His father didn't belong to me, he was a blacksmith and belonged to a man at Mayesville.
Q You don't know anything about his wife? A No, sir.

GEORGE BELL, the applicant, recalled:

Q Now, what testimony have you got as to your ~~father~~ wife's citizenship, mr. George Bell? A Her brother will bring that in after a while.
Q You hd better bring it in now? A I haven't got any witnesses; I thought I would apply for her and bring that up when he come in.
Q You say her father is alive? A No, sir, he is dead.
Q Well, then, you had better not apply for anybody but yourself now apply for your wife and children when you have the testimony?
A Well, I don't know how that would be.
(Applicant withdraws the applications for ~~mf~~ his wife and children.)

COM'R NEEDLES: George Bell applies for the enrollment of himself. He is duly identified upon the Wern Clifton and Wallace rolls. He is not identified upon the authenticated roll of 1880 or census roll of 1896. He avers that he was married to one Margaret Daniels by whom he has four children, as enumerated herein, but withdraws the applicant for the ~~rem~~ ~~[illegible]~~ present for his wife and children. The testimony shows that the said George Bell was a slave and was taken to the State of Texas in the year 1861, and that he was brought back from the state of Texas in May, 1867; that he was a minor at the time he was taken

George Bell #

and at the time of rendering [illegible] because of the fact that the rights of mining have not yet been decided upon, the said George Bell will be liable for royalty at 4 Cherokee Freedmen upon a doubtful card pending further consideration by the Commission as to the rights of minors. He will be duly notified by mail of the action of the Commission when the decision is arrived at.

---

J.O Hanson, being first duly sworn states that he is stenographer in the Commission to the Five Civilized Tribes; he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

(signed) J.O.Hanson

Subscribed and sworn to before me this 26th day of June, 1901.

(signed) T.B.Needles,
Commissioner.

---

I, J.Hanson, being first duly sworn states that he is stenographer in the Commission to the Five Civilized Tribes; he made the foregoing copy and that same is a true and complete copy of the original transcript.

J.O. Hanson

Subscribed and sworn to before me this 26th August 26th, 1901.

Commissioner.

Cher.Freedmen D.706-1021.

IN THE MATTER OF THE APPLICATION OF GEORGE BELL ET AL.,

FOR ENROLLMENT AS CHEROKEE FREEDMEN.

++++++++++++++++++++

MOTION TO READJUDICATE.

The record in this case shows,that George and July Bell were the slaves of Cherokee Citizens at the commencement of the Rebellion,were taken out of the Nation but did not return til April or May 1867,they being at that time minors and said return being with their former Master.

Upon a motion heretofore made,the Department,following the rule laid down in the Charles Foreman case held that these applicants did not come within the purview of that ruling.

Later in the Burrill Daniels case,the Department held,that;

"....if the principal applicant,after being freed from physical "restraint,returned to his home in the Nation within such time "as was reasonably necessary considering his means and circum- "stances and the facilities for travel,he should be regarded as "never having been absent from the Nation;further,that if on "the other hand,he pursued such course as showed an intent to "choose a domicil and abide elsewhere,his rights should be deter- "mined precisely as those of a native Cherokee citizen....."

D.C.24559-1905.I.T.D.5330-1906.

Referring to said case,there is found in the opinion of the Attorney General,the following,

"....To that time Daniels had been able to do nothing and had "done nothing to change his legal domicile from the Nation.He "had been forcibly and tortiously deported by brigands and sold "into servitude.No rights could be lost thereby.In legal aspect "he was while in foreign peonage an actual resident of the Cherokee "Nation and citizen thereof under Article II of the Treaty.

I.T.D.1706-1906.9407,10081-1906.

It is our opinion that the case of the Bells come within the rule in the said Daniels case,they did return within reasonable,necessary time, and reference is called to a former motion together with the the affidavit of L.H.Bell their former master,wherein he states that he would not permit said applicants to return to the Nation from Texas in advance of himself,but that he brought them with him when he returned in April or May 1867,since this last mentioned date they have lived in the Nation and have occupied Public Domain and have valuable improvements thereon,have drawn the'71 payment of $10.00,the Willets,Dayton and the Lips,and have been actual bona fide residents ever since their return,and have never become members of

any other tribe of Indians.

Reference is invited to the former motion, the affidavit of their former master, L.B.Bell, together with the record in the case.

Respectfully submitted,

J.J.Sullivan

Attorney for applicants.

To The Honorable Secretary of the Interior.

Through the Dawes Commision and Commissioner of Indian Affairs.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of George Bell et al., for enrollment as Cherokee Freedmen, consolidating the applications of

George Bell,- - - - - - - - Cherokee Freedmen D 706
July Bell, - - - - - - - - -Cherokee Freedmen D 1021.

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by George Bell and July Bell, each for himself. The evidence herein shows that the applicants, George Bell and July Bell, were the slaves of one, L.B.Bell, a Cherokee citizen at the commencement of the rebellion; that they were taken out of the Cherokee Nation during the rebellion and did not return thereto until May 1867. Neither of the applicants' names are found on the1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of George Bell and July Bell as Cherokee Freedmen should be denied under the provisions of section twenty-one of the act of Congress, approved June 28, 1898 (30 Stats. 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(Signed) Tams Bixby, Chairman.
" T.B.Needles,Commissioner.
" C.R.Breckinridge,Commissioner.
" W.E.Stanley, Commissioner.

Muskogee, I.T.

this Mar 5, 1904.

Cherokee F.D-706,
D-1021.

Muskogee, Indian Territory, March 16,1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the applications for the enrollment of George and July Bell, as Cherokee Freedmen, together with the Commission's decision, dated March 5, 1904, rejecting said applications.

Respectfully,

C. R. Breathitt

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. C-11

Cherokee F.D-706

Muskogee, Indian Territory, March 16,1904.

George Bell,

Hayden, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the record of proceedings had in the matter of your application for enrollment as a Cherokee Freedman, together with a copy of the Commission's decision dated March 5, 1904, rejecting, among others, your said application.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Register.

Enc. C-8

Cherokee F.D-706
& D-1021.

Muskogee, Indian Territory, March 16,1904.

W.W.Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5,1904, in the consolidated case of George Bell, et al., rejecting the applications for the enrollment of George and July Bell, as Cherokee Freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Enc. 6-10

Commissioner in Charge.

COPY

Refer in reply to the following:

Land 19282-1904.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, May 24, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith report of the Commission to the Five Civilized Tribes, dated March 16, 1904, forwarding for consideration record relative to the applications of George and July Bell for enrollment as Cherokee Freedmen.

From the evidence in this case, it appears that these applicants were the slaves of L. B. Bell, a Cherokee citizen, at the commencement of the war; that they were taken out of the Cherokee Nation during the war and that they did not return thereto until after February 11, 1867.

Their names are not found on the authenticated Cherokee roll of 1880. The applicants not having returned within the time limit fixed by the treaty of 1866 are not entitled to enrollment as Cherokee Freedmen and the approval of the Commission's decision of March 5, 1904, adverse to them is recommended.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

GAW:E

J.W.M.

J.R.

THE

D.C. 21479-1904.

I.T.D. 4256-1904.

L R S

DEPARTMENT OF THE INTERIOR,

WASHINGTON June 21, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

March 16, 1904, you transmitted the record in the matter of the application for the enrollment of George and July Bell, as Cherokee freedmen, including your decision of March 5, 1904, rejecting said application.

Reporting in the matter May 26, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

1 inclosure.

Cherokee Freedmen,
R-906.

Muskogee, Indian Territory, June 29, 1904.

George Bell,

Hayden, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting, among others, your application for enrollment as a Cherokee freedman was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen,
D-1021,
D- 706.

Muskogee, Indian Territory, June 29, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby informed that the Commission's decision, dated March 5, 1904, rejecting the applications of July and George Bell for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Muskogee, I. T., July 15, 1904.

Received of the Commission to the Five Civilized Tribes one copy of the testimony in the matter of the application for the enrollment of George Bell as a Cherokee freedman, taken at Chelsea, I. T., on June 12, 1901.

Attorney for applicant.

COPY

Cherokee Freedmen
R-415-416.

Muskogee, Indian Territory, November 22, 1904.

W. J. Sullivan,
Attorney for George Bell, et al.,
Muskogee, Indian Territory.

Dear Sir:

In the matter of the applications for the enrollment of George and July Bell, you are hereby advised that the Commission is in receipt of departmental letter of October 8, wherein the motion for rehearing in the matter of said applications is denied.

For your information there is herewith inclosed a copy of the departmental letter above referred to.

Respectfully,

SIGNED: Tams Bixby.
Chairman.

Incl. 5-61.

DIRECT
SPECIAL.

Muskogee, Indian Territory, March 2, 1907

The Honorable,

The Secretary of the Interior.

Sir:

A re-examination of the records in the matter of the applications for the enrollment of all citizens of the Cherokee Nation has been made, and from such examination the Commissioner has to report that motions to reopen and review the following Cherokee enrollment cases were filed with this office on June 25, 1906, by W. J. Sullivan, Attorney, of Muskogee, Indian Territory:

| | | | |
|---|---|---|---|
| Peter Marriage et al. | Cherokee Freedmen | R | 180 |
| Mariah Lewis | Cherokee Freedmen | D | 1051 et al. |
| Richard Vann | Cherokee Freedmen | D | [illegible] et al. |
| George Bell et al. | Cherokee Freedmen | R | 769 et al. |
| Laura Gross et al. | Cherokee Freedmen | D | [illegible] et al. |
| William C. Trogdin et al. | Cherokee Mems. | | 143 |

These motions were all submitted by Mr. Sullivan

with his letter of June 25, 1906. They were all attached together, and were improperly filed in a Cherokee enrollment case, and for this reason have not heretofore been forwarded for Departmental action. The finding of these motions was not called to my attention until about two o'clock this afternoon, and they are transmitted herewith for such action as the Department considers necessary in the premises.

The replies of the Attorney for the Cherokee Nation to these motions, filed July 17, 1906, all of which were improperly filed with these motions, are also enclosed.

The decision of the Commission to the Five Civilized Tribes dated June 30, 1905, rejecting the application of Peter Harnage for the enrollment of himself and his children, Lula, Katie, and Chester Harnage, was affirmed by the Department December 12, 1905 (I.T.D. 9944-1905).

The decision of the Commissioner to the Five Civilized Tribes dated September 8, 1905, rejecting the application for the enrollment of Mariah, Henry Hettie and Rosa Lewis, Cora and Claudie Arkle, and Mary, Buster and Frances King, as Cherokee freedmen, was affirmed by the Department December 6, 1905 (I.T.D. 15876-1905).

The decision of the Commission to the Five Civilized

Tribes dated June 16, 1905 rejecting the application of Richard, Stella, Harry, Bessie, Charlie , and Lucy L. Vann for enrollment as Cherokee freedmen, was affirmed by the Department October 14, 1905 (I.T.D. 7770-1905).

The decision of the Commission to the Five Civilized Tribes dated March 5, 1904, rejecting the applications for the enrollment of George and July Bell as Cherokee freedmen was affirmed by the Department June 21, 1904 (I.T.D. 4286-1904).

The decision of the Commission to the Five Civilized Tribes dated June 16, 1905, rejecting the applications for the enrollment of Laura Gross, Mary and Blue Risby, Kay, Sallie, William, Hattie, Ed, Richard, Lee, Chlora A., and Fent (Fint) Gross, Emma Brown and Ora and Joanna Neal, as Cherokee freedmen, was affirmed by the Department, October 26, 1905 (I.T.D. 7990-1905)

The decision of the Commission to the Five Civilized Tribes refusing to receive or consider the application for the enrollment of William C., Roy E., Ada E., Clarence

and Alice Troglin as citizens by blood of the Cherokee Nation, was affirmed by the Department February 7, 1902, (I.T.D. 694-1902).

The original records in all of these cases are now in the files of the Department, and these papers are herewith transmitted for such action as the Department desires to take relative thereto.

The error in filing these motions and the delay occasioned thereby is greatly deprecated.

Respectfully,

Commissioner

Encl. B-100

D.C.16821 COPY. J. F.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

March 9, 1907.

I.T.D.8190-1907.

LBS

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

March 5, 1907, the Department received your letter of March 2, 1907, transmitting motions for review in the Cherokee freedman cases of Peter Harnage et al., Mariah Lewis et al., Richard Vann et al., George Bell et al., Laura Gross et al., and in Cherokee Memo. case of William C. Troglin et al.

You explain the reasons why these motions, which were filed in your office June 25, 1906, failed to be transmitted to the Department in due time.

In view of the provision in the second section of the act of April 26, 1906 (34 Stat., 137), that the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person in the Cherokee Nation after March 4, 1907, your letter and the motions have been sent to the Indian Office to be filed with the other papers in the cases to which they refer.

Respectfully,

(Signed) Jesse E. Wilson,

Assistant Secretary.

Cherokee F
R 415.

Muskogee, Indian Territory, April 6, 1907.

George Bell,

Hayden, Indian Territory.

Dear Sir:

You are hereby advised that the motion filed by your attorney for a rehearing of your Cherokee freedman enrollment case, was denied by the Secretary of the Interior, march 9, 1907.

Respectfully,

Acting Commissioner.

LMC

Cherokee F
R 558, et al.

Muskogee, Indian Territory, April 8, 1907.

W. J. Sullivan,

Attorney for Mariah Lewis, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that motions filed by you for a rehearing of the Cherokee freedman enrollment cases of Peter Harnage et al., Mariah Lewis et al., Richard Vann et al., George Bell et al., Laura Gross et al., and in Cherokee name. case of William C. Troglin et al., were denied by the Secretary of the Interior, March 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl 2-78

Acting Commissioner.

Cherokee F.
R 550 et al.

Muskogee, Indian Territory, April 6, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motions for rehearing of the Cherokee freedmen cases of Peter Warnage et al., Mariah Lewis et al., Richard Vann et al., George Bell et al., Laura Cross et al., and In Cherokee memo. case of William C. Preglin et al., filed by W. J. Sullivan, Muskogee, Indian Territory, were denied by the Secretary of the Interior, March 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Acting Commissioner.

Encl.C-71
LMC

Choctaw 415

RECEIVED
JUL 1904
COMMISSION TO FIVE TRIBES.

Phoenix Printing Company, Muskogee, Indian Territory.

# POWER OF ATTORNEY.

Know All Men by These Presents:

That I George Bell of the Cherokee Nation, have this day made, constituted and appointed W.J. Sullivan of Muskogee Indian Territory, my lawful agent and attorney in fact to act for me and in my name, place and stead in the transaction of the following business; that is to say, to ~~lease, let, rent and otherwise dispose of my land in the ..... which has been allotted to me by authority of the United States, which land is described as follows:~~ in all matters relating to my application as a citizen of the Cherokee Nation.

Said W.J. Sullivan, ~~is only authorized to dispose of said land for ..... purposes and to do so as the law may direct, and said ..... is~~ authorized to sign my name to any and all instruments of writing necessary to the consummation of the business aforesaid, and to do and perform any and all other acts and things neccessary to the accomplishment of the same as I could lawfully do if personally present and acting. And I hereby ratify and confirm all that my said attorney may lawfully do relative to the business aforesaid. ~~And I hereby agree to pay my said attorney for his services in the performance of said business an amount equal to ..... per cent of the value of the property to be disposed of under this Power of Attorney.~~ All former Powers of Attorney relative to said business so entrusted to my said agent or attorneys are hereby revoked, ~~and this Power of Attorney is irrevokable.~~

Given under my hand, this the 13" day of July 190 4.

George Bell

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

JUN 12 1901

Date .....

Post Office Hayden I. T.

District Coo

1. Name George Bell Age 41

Owner's name L. B. Bell Citizenship Cherokee

Year K6 Page 183 No. 4502 District Coo

Parents:

Father Armistead — — Citizenship

Mother Anaca Cunningham — Citizenship

2. ~~Name of wife~~ Margaret Bell Age 27 10,

Owner's name ~~—~~ Citizenship

Year K6 Page 183 No. 4497 District

Parents:

Father Harry Daniels — Citizenship

Mother — — Citizenship

Names of Children:

3. Beatrice Bell Year K6 Page [illegible] No. [illegible] Dist. — 7

4. Boyd " Year — Page — No. — Dist. — 5

5. George D. " Year — Page — No. — Dist. — 3

6. Benford " Year — Page — No. — Dist. — 5

7. Year Page No. Dist.

8. Year Page No. Dist.

9. Year Page No. Dist.

10. Year Page No. Dist.

11. Year Page No. Dist.

12. Year Page No. Dist.

Application made by Mr. Stenographer J. D. Rosson

1 On Wallace roll, P. 103 #2202 Coo

2 " K6 Bell as Margaret Daniels

2 " Wallace " P. 182 #3[illegible] Margaret Daniels

3, 4, 5 and 6 Affidavit of birth required.

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cher. Fr. R. 416

See Cher. Fr. R. 415

Cher. Fr. R. 416

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
CHELSEA, I.T., JUNE 12th, 1901.

In the matter of the application of George Bell for enrollment as a Cherokee Freedman; said Bell being sworn and examined by Commissioner T. B. Needles, testifi ed as follows:

Q What is your name? A George Bell.
Q How old are you, Mr. Bell? A I am about 41.
Q What is your post office address? A Hayden.
Q What district do you live in? A Cooweescoowee.
Q Do you apply to be enrolled as a Cherokee Freedman?
A Yes, sir.
Q Who do you want to enroll b sides yourself? A My wife and four children.
Q What is your wife's name? A Margaret.
Q How old is she? A She is about 27.
Q What is the names of your children? A My oldest one is Beatrice, seven years old.
Q What is the name of the next child? A Ord.
Q How old is Ord? A Five years old; George Dewey.
Q How old is George Dewey? A Three years old.
Q The next one? A Beulah.
Q How old is Beulah? A She is about five months.
Q Do you apply for your wife? A Yes, sir.
Q Is your name on the roll of 1880? A No, sir, I think not.
Q Is your name on any of the rolls of the Cherokee Natio n?
A Yes, sir.
Q On what roll? A On the Wallace roll and K. C. roll.
Q Is your wife's name on the roll of 1880? A No, sir.
Q Is her name on any of the rolls of the Cherokee Nation?
A On the Wallace and Clifton.
Q What was your father's name? A His name was Armstead, but his surname I don't know.
Q What was your mother's name? A Anika.
Q Is your father living? A No, sir; the last account I had of him he was.
Q What was your wife's father's name? A Harry Daniels.
Q Is he living? A No, sir.
Q What is her mother's name? A I don't know her mother's name.
Q Who does your wife claim her citizenship through, her father?
A Yes, sir.

The 1880 Authenticated Roll of Freedmen of the Cherokee Nation examined and applicant's name not found thereon.

The Kern-Clifton Roll of citizens of the Cherokee Nation examined and names of applicants fou d thereon as follows:
Page 183, #4502, George Bell, Cooweescoowee District.
Page 183, #4491, Margaret Daniels, no district given.

Q Did you draw for your children? A No1 sir.

The Wallace roll of Freedmen of the Cherokee Nation examined and names of applicants found thereon as follows:
Page 103, #2902, George Bell, Cooweescoowee District.
Page 188, "3347, Margaret Daniels, no district given.

Q What was your wife's mother's name? A I don't know her name.
Q Were you a slave, born slave? A Yes, sir, born slave.
Q To whom did you belong? A I belonged to Mr. Bell's family.
Q What Bell? A L. B. Bell that is here.
Q Were you taken out of the Cherokee Nation during the war?
A Yes, sir, he taken me out.
Q When did you come back? A He brought me back.
Q When? A About '67 he says, I have to take his word for it, I don't know.

Q Take whose word for it? A Mr. Bell here.
Q Which Mr. Bell? A Mr. L. B.
Q Was your father a slave? A I think he was.
Q Was your father south? A Yes, sir.
Q Was your mother taken out at the same time you were?
A Yes, sir, she died in Texas.
Q You were taken to Texas? A Yes, sir.
Q Have you any witnesses as to your return? A I have here, Mr. Bell.

L. B. BELL, being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q Your name is L. B. Bell; 62, post office, Vinita.
Q Mr. Bell, you are a Cherokee citizen by blood? A Yes, sir.
Q Do you know the applicant, George Bell? A Yes, sir.
Q Was he a slave before the war? A Yes, he was a slave, he belonged to me.
Q Well, was he taken out of the country? A '61, and he was about two years old; he was taken to Texas.
Q When did he return, Mr. Bell? A Well he come back here in May, 1867, about the first of May I reckon I got into this country; I brought him back. There were two of them orphan children, the mother died and the father belonged to somebody else.
Q Have you known him ever since that time? A Yes, he lived with me until he got big enought to make a living himself; he is about 41 years old.
Q Has he always lived in the Cherokee Nation? A Yes, he has been here since '67.
Q Do you know his wife, Margaret? A No, sir.
Q How old was he when he returned Mr? Bell? A Well, from '61, I guess he was as seven or eight years old.
Q Where was his father and mother? A His mother she died, I took her to Texas and she died there while he was a very small boy.
Q What became of his father? A His father didn't belong to me; he was a blacksmith and belonged to a man at Mayesville.
Q You don't know anything about his wife? A No, sir.

GEORGE BELL, the Applicant, recalled:

Q Now, what testimony have you got as to your wife's citizenship, Mr. George Bell? A Her brother will b ing that in after a while, I thought I would apply for her and bring that up when he come in.
Q You say your fa her father is alive? A N o, sir, he is dead.
Q Well, then, you had better not apply for anybody but yourself now; apply for your wife and children when you have the testimony?
A Well, I don't know how that would be.

(Applicant withdraws the applications for his wife and children.)

COM'R NEEDLES: George Bell applies for the enrollment of himself. He is duly identified upon the Kern-Clifton and Wallace rolls. He is not identified upon the authenticated roll of 1880 or census roll of 1896. He avers that he was married to one Margaret Daniels by whom he had four children, as enumerated herein, but withdraws the applicant for the present for his wife and children. The testimony shows that the said George Bell was a slave and was taken to the State of Texas in the year 1861, and that he was brought back from the state of Texas in May, 1867; that he was a minor at the time he was taken and at the time he returned. By reason of the fact that the rights of minors have not yet been decided upon, the said George Bell will

be listed for enrollment a a Cherokee Freedman upon a doubtful card awaiting further consideration by the Commissi on as to the rights of minors. He will be duly notified by mail of the action of the Commission when the decision is arrived at.

--- oooOOOooo---

J. O. Reesen, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Reesen

Subscribed and sworn to before me this 26th day of June, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
RECEIVED
JUL 20 1901

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., July 2,1901.

In the matter of the application of July Bell for the enrollment of himself as a Cherokee Freedman; being sworn and examined by Commissioner Needles, he testified as follows:

Q What is your name? A July Bell.
Q How old are you? A About 43.
Q What is your post-office? A Vinita.
Q What district do you live in? A Delaware.
Q You apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A Nobody.
Q What is your father's name? A Ann.
Q Ann what, what ann, right ann or left ann? A Named Ann Phillips.
Q What is your mother's name? A Anky.
Q Anky what? A Cunningham, or Anky Bell. She belonged to both of them.
Q Are you married? A No sir.
Your name on any of the rolls of the Cherokee Nation? A Some of them, I don't know how many.
Q Did you ever draw any money? A Yes sir.
Q What money did you draw? A Wallace and Clifton.
Q Did you draw the Strip money? A Yes sir.
Q Is your name on the roll of 1880? A I don't know sir whether it is or not.
Q Have you got any witnesses here? A No sir. My witnesses though is the same as my brother's is.
Q What is your brother's name? A George Bell.
Q Are you an own brother to George Bell? A Yes sir.
Q Same father and same mother? A Yes sir.
Q Are you older than him or younger? A Older.
Q Were you a slave? A Yes sir.
Q Who did you belong to? A I belonged to a good many, I couldn't tell you who all, but I was found in the hands of Bell last.
Q Did you go out of the Cherokee Nation during the war? A Went to Texas.
Q When did you come back? A I don't know sir, when I come back; I found myself here.
Q When? A Oh, goodness, I couldn't tell you how long ago, it has been so long.
Q Q Was you here in 1866? A I don't know that.
Q Did you come back with George, your brother? A Yes sir.
Come back with him did you? A Yes sir.
Q Have you been living in the Cherokee Nation ever since? A Yes.
Q Always here? A Yes sir.
Q Never lived out of it? A No sir.
Q Never went back to Texas? A Went back once to see my daddy, and stayed six weeks.
Q Are you married? A No sir.
Ever been married? A No sir.
Q Where did you get that big ring? A (No reply.)

Wm. Clifton pay roll of citizens of the Cherokee Nation examined and applicant identified on page 183 #4803 July Bell, Coowescoowee District;
Wallace roll of citizens of the Cherokee Nation examined and applicant identified on page 103 #2203 July Bell, Coowescoowee District.

Q You are sure you and George come back together? A Yes sir, we drove hogs all the way from Texas.
BY MR. DAVENPORT, Cherokee Nation:
Q That was in the spring of '67? A I don't know.

Q Sawtina Hoolis came? A Yes sir, whenever he came.
Q You been living here all the time? A Yes sir.
Q What have you been doing here all the time? A Working around, scrubbing and I don't know what all I have been doing.
Q Ever married? A No sir.

Com'r Needles: July Bell applies for the enrollment of himself; he cannot be identified upon the authenticated roll of 1880 or the census roll of 1896, but is identified on the Tom-Clifton and the Wallace rolls; he avers that he is a brother of George Bell, who was listed for enrollment as a Cherokee Freedman on D 706, and the testimony taken in the application of George Bell will be made a part of the record in the case at bar and a copy thereof will be filed herewith; he avers that he returned from the State of Texas with his brother, George Bell; he was a slave, and taken to Texas during the war; he will now be listed for enrollment as a Cherokee Freedman on a doubtful card; he will be notified by mail at his post-office address of the action of the Commission.

------••••••------

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this July 16, 1901.

D B Needles

Commissioner.

COPY.

Cherokee F.D-1021.

Muskogee, Indian Territory, March 16, 1904.

July Bell,

Vinita, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the record of proceedings had in the matter of your application for enrollment as a Cherokee Freedman, together with a copy of the Commission's decision, dated March 5, 1904, rejecting, among others, your said application.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. [illegible]

Register.

Commissioner in Charge.

Enc. C-9

Cherokee F.D-706
& D-1021.

Muskogee, Indian Territory, March 16,1904.

W.W.Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated March 5,1904, in the consolidated case of George Bell, et al., rejecting the applications for the enrollment of George and July Bell, as Cherokee Freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

C. R. Breckinridge.

Enc. C-10

Commissioner in Charge.

COPY.

Cherokee F.D-706,
D-1021.

Muskogee, Indian Territory, March 16,1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the matter of the applications for the enrollment of George and July Bell, as Cherokee Freedmen, together with the Commission's decision, dated March 5, 1904, rejecting said applications.

Respectfully,

C. R. Breathitt

Commissioner in Charge.

Through the

Commissioner of Indian Affairs.

Enc. G-11

COPY

Refer in reply to the following:
Land 19283-1904.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, May 24, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

There is enclosed herewith report of the Commission to the Five Civilized Tribes, dated March 16, 1904, forwarding for consideration record relative to the applications of George and July Bell for enrollment as Cherokee Freedmen.

From the evidence in this case, it appears that these applicants were the slaves of L. B. Bell, a Cherokee citizen, at the commencement of the war; that they were taken out of the Cherokee Nation during the war and that they did not return thereto until after February 11, 1867.

Their names are not found on the authenticated Cherokee roll of 1880. The applicants not having returned within the time limit fixed by the treaty of 1866 are not entitled to enrollment as Cherokee Freedmen and the approval of the Commission's decision of March 5, 1904, adverse to them is recommended.

Very respectfully,

A. C. Tonner,
Acting Commissioner.

AHW:E

J.W.M.
J.P.

D.C. 21679-1904.
I.T.D. 4826-1904.
L R S

DEPARTMENT OF THE INTERIOR,
WASHINGTON June 22, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

March 16, 1904, you transmitted the record in the matter of the application for the enrollment of George and July Bull, as Cherokee freedmen, including your decision of March 5, 1904, rejecting said application.

Reporting in the matter May 24, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,
(Signed) E. A. Hitchcock,
Secretary.

1 inclosure.

Cherokee Freedmen,
D-1021.

Muskogee, Indian Territory, June 29, 1904.

July Bell ,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 5, 1904, rejecting, among others, your application for enrollment as a Cherokee freedman was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

(COPY)

W.C.F.
Y.P.
FHE

DEPARTMENT OF THE INTERIOR,

D. C. 38753-1904. WASHINGTON. October 8, 1904.

I. T. D. 6295-1904.
7660- "

LRS

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department is in receipt of a communication from W. J. Sullivan, Muskogee, I. T., dated July 26, 1904, transmitting a motion for rehearing in the Cherokee freedman case of George and July Bell, in which case the Department, on June 21, 1904, approved your decision rejecting the applicants. Said motion for rehearing is based upon the decision of the Department in the Cherokee freedman case of Charles Foreman.

The Assistant Attorney General, in his opinion of April 16, 1904, relative to the case of Charles Foreman, stated that-

"While Foreman was one of Ross' retinue upon a diplomatic mission from the Cherokee Nation to the Government of the United States, he and all others of Ross' party, equally with the delegate, were in view of the law residents of the state from which the delegate was credited. It follows that from the date of the treaty to the severing of his employment by the delegate Foreman was, in view of the law and a proper construction of the treaty, a resident of the Territory. It is immaterial whether his going with the delegate was constrained, the obedience of a slave, or the voluntary act of a free person."

In the case in which Mr. Sullivan desires a rehearing, the record shows that the applicant George Bell was the slave

of L. B. Bell, apparently a private citizen of the Cherokee Nation at the commencement of the rebellion; that July Bell belonged to one J. T. Cunningham, also apparently a private citizen of the Cherokee Nation; that they were taken out of the Cherokee Nation by L. B. Bell in 1861, and did not return thereto until May, 1867.

The motion is therefore denied, and you will so notify Mr. Sullivan.

Respectfully,

(Signed) Thos. Ryan.

Acting Secretary.

COPY.

Cherokee Freedmen
B-415-416.

Muskogee, Indian Territory, November 28, 1904.

W. J. Sullivan,
Attorney for George Bell, et al.,
Muskogee, Indian Territory.

Dear Sir:

In the matter of the applications for the enrollment of George and July Bell, you are hereby advised that the Commission is in receipt of departmental letter of October 8, wherein the motion for rehearing in the matter of said applications is denied.

For your information there is herewith inclosed a copy of the departmental letter above referred to.

Respectfully,

Tams Bixby.
Chairman.

Incl. B-61.

DIRECT
SPECIAL.

Muskogee, Indian Territory, March 2, 1907

The Honorable,

The Secretary of the Interior.

Sir:

A re-examination of the records in the matter of the applications for the enrollment of all citizens of the Cherokee Nation has been made, and from such examination the Commissioner has to report that motions to reopen and review the following Cherokee enrollment cases were filed with this office on June 25, 1906, by W. J. Sullivan, Attorney, of Muskogee, Indian Territory:

| | | | |
|---|---|---|---|
| Peter Harnage et al. | Cherokee Freedmen | R | 180 |
| Mariah Lewis | Cherokee Freedmen | D | 1051 et al |
| Richard Vann | Cherokee Freedmen | D | 1338 |
| George Bell et al. | Cherokee Freedmen | D | 706 et al |
| Laura Gross et al. | Cherokee Freedmen | D | 46 et al |
| William C. Treglia et al. | Cherokee Memo. | | 163 |

These motions were all submitted by Mr. Sullivan

with his letter of June 25, 1906. They were all attached together, and were improperly filed in a Cherokee enrollment case, and for this reason have not heretofore been forwarded for Departmental action. The finding of these motions was not called to my attention until about two o'clock this afternoon, and they are transmitted herewith for such action as the Department considers necessary in the premises.

The replies of the Attorney for the Cherokee Nation to these motions, filed July 17, 1906, all of which were improperly filed with these motions, are also enclosed.

The decision of the Commission to the Five Civilized Tribes dated June 30, 1905, rejecting the application of Peter Harnage for the enrollment of himself and his children, Iula, Katie, and Chester Harnage, was affirmed by the Department December 12, 1905 (I.T.D. 9944-1905).

The decision of the Commissioner to the Five Civilized Tribes dated September 8, 1905, rejecting the application for the enrollment of Mariah, Henry, Hettie and Rosa Lewis, Cora and Claudie Arkle, and Mary, Buster and Frances King, as Cherokee freedmen, was affirmed by the Department December 6, 1905 (I.T.D. 15878-1905).

The decision of the Commission to the Five Civilized

Tribes dated June 16, 1906 rejecting the application of Richard, Stella, Harry, Bessie, Charlie , and Iggy L. Vann for enrollment as Cherokee freedmen, was affirmed by the Department October 14, 1908 (I.T.D. 7770-1908).

The decision of the Commission to the Five Civilized Tribes dated March 5, 1904, rejecting the applications for the enrollment of George and July Bull as Cherokee freedmen was affirmed by the Department June 21, 1904 (I.T.D. 4286-1904).

The decision of the Commission to the Five Civilized Tribes dated June 16, 1905, rejecting the applications for the enrollment of Laura Green, Mary and Elmo Risby, May, Sallie, William, Hattie, Ed, Richard, Lee, Chlora A., and Pearl (Pink) Green, Emma Brown and Ora and Joanna Neal, as Cherokee freedmen, was affirmed by the Department, October 26, 1908 (I.T.D. 7998-1908)

The decision of the Commission to the Five Civilized Tribes refusing to receive or consider the application for the enrollment of William C., Roy E., Ada E., Clarence

Secretary-4

and Alice Proglin as citizens by blood of the Cherokee Nation, was affirmed by the Department February 7, 1902, (I.T.D. 694-1902).

The original records in all of these cases are now in the files of the Department, and these papers are h herewith transmitted for such action as the Department desires to take relative thereto.

The error in filing these motions and the delay occasioned thereby is greatly deprecated.

Respectfully,

Encl. 2-100

Commissioner

Cherokee F
R 416.

Muskogee, Indian Territory, April 6, 1907.

July Bell,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the motion filed by your attorney for a rehearing of your Cherokee freedman enrollment case, was denied by the Secretary of the Interior, March 9, 1907.

Respectfully,

Acting Commissioner.

LMC

Cherokee F
R 550, et al.

Muskogee, Indian Territory, April 6, 1907.

W. J. Sullivan,

Attorney for Mariah Lewis, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that motions filed by you for a rehearing of the Cherokee freedman enrollment cases of Peter Harnage et al., Mariah Lewis et al., Richard Vann et al., George Bell et al., Laura Gross et al., and in Cherokee memo. case of William C. Troglin et al., were denied by the Secretary of the Interior, March 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Encl.C-76
LMC

Acting Commissioner.

Cherokee F.
R 650 et al.

Muskogee, Indian Territory, April 6, 1907.

W. W. Hastings,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the motions for rehearing of the Cherokee freedmen cases of Peter Warnage et al., Mariah Lewis et al., Richard Vann et al., George Bell et al., Laura Gross et al., and In Cherokee memo. case of William C. Troglin et al., filed by W. J. Sullivan, Muskogee, Indian Territory, were denied by the Secretary of the Interior, March 9, 1907.

For your information, there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Acting Commissioner.

Encl.C-71
LBS

D.C.16821 COPY J. P.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D.8190-1907. March 9, 1907.

LRS

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

March 5, 1907, the Department received your letter of March 2, 1907, transmitting motions for review in the Cherokee freedman cases of Peter Harnage et al., Mariah Lewis et al., Richard Vann et al., George Bell et al., Laura Gross et al., and in Cherokee Memo. case of William C. Troglin et al.

You explain the reasons why these motions, which were filed in your office June 25, 1906, failed to be transmitted to the Department in due time.

In view of the provision in the second section of the act of April 26, 1906 (34 Stat., 137), that the Secretary of the Interior shall have no jurisdiction to approve the enrollment of any person in the Cherokee Nation after March 4, 1907, your letter and the motions have been sent to the Indian Office to be filed with the other papers in the cases to which they refer.

Respectfully,

(Signed) Jesse E. Wilson,

Assistant Secretary.

Ch74R416

FILED
JUL 13 1904
COMMISSION TO FIVE TRIBES.

Phoenix Printing Company, Muskogee, Indian Territory.

# POWER OF ATTORNEY.

Know All Men by These Presents:

That I, July Bell of the Cherokee Nation, have this day made, constituted and appointed W. J. Sullivan, of Muskogee, Indian Territory, my lawful agent and attorney in fact to act for me and in my name, place and stead in the transaction of the following business; that is to say, to ~~lease, buy, sell and otherwise dispose of my land in the ... which has been allotted to me by authority of the United States, which land is described as follows:~~ in all matters relating to my application as a citizen of the Cherokee Nation.

Said W. J. Sullivan, ~~is only authorized to dispose of said land for ... purposes and to do so on the best terms, and said ... is authorized to sign~~ my name to any and all instruments of writing necessary to the consummation of the business aforesaid, and to do and perform any and all other acts and things neccessary to the accomplishment of the same as I could lawfully do if personally present and acting. And I hereby ratify and confirm all that my said attorney may lawfully do relative to the business aforesaid. ~~And I hereby agree to pay my said attorney for his services in the performance of said business an amount equal to ... per cent of the value of the property to be disposed of under this Power of Attorney.~~ All former Powers of Attorney relative to said business so entrusted to my said agent or attorneys are hereby revoked, ~~and this Power of Attorney is irrevocable.~~

Given under my hand, this the 13 day of July 1904.

July Bell

D

JD1021

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUL 2 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date July 7, 1901

Post Office Vinita I.T.

District Del

1. Name July Bell Age 43

Owner's name Citizenship

Year R.C. Page 183 No 4503 District Cov

Parents:

Father Ann Phillips Citizenship

Mother Amaca Bell Citizenship

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Year Page No. Dist.
4. Year Page No. Dist.
5. Year Page No. Dist.
6. Year Page No. Dist.
7. Year Page No. Dist.
8. Year Page No. Dist.
9. Year Page No. Dist.
10. Year Page No. Dist.
11. Year Page No. Dist.
12. Year Page No. Dist.

Application made by Ms. I Stenographer M. D. Green

On Wallace roll, Page 103 #2203 - Cov

Ref. 2706

Dead Bell

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cher. Fr. R. 417

See Cher. Fr. D. 1007

Cher. Fr. R. 417

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MOWATA, I.T., JULY 1st, 1901.

In the matter of the application of Jesse Hicks for the enrollment of himself and one child as Cherokee Freedmen; said Hicks being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
Mr. L. T. Brown, for Applicants.
Mr. J. S. Davenport, for Cherokee Nation.

Q What is your name? A Jesse Hicks.
Q How old are you? A Well, as near as I can come at my age, I am about 74.
Q What is your post office? A Hayden.
Q What district do you live i n? A Cooweescoowee District.
Q Do you apply to be enrolled as a Cherokee Freedman?
A Yes, si r.
Q Does your name appear upon any of the rolls of the Cherokee Nation? A yes, sir.
Q What roll? A Clifton.
Q Name does not appear upon the roll of 1880? A It might I went before Wallace.
Q Yo u went before Wallace did you? A Yes, sir.
Q Did you ever try to have your name put on t he roll of 1880? (No response.)
Q Did you ever go to Tahlequah? A No, sir.
Q Who do you want to enroll besides yourself A I have got a daughter here.
Q How old is she? A She is old enough to tend to her own.
Q Have you got any children un der 21 years of age? A I have got a boy, that is yougerr than she.
Q How old is he? A 19.
Q His name? A William Hicks.
Q You apply for yourself and your son, William? (No respone.)

BY MR. BROWN:

Q Were you a slave in the Chero kee Nation at the beginning of the Civil War? A Yes, sir.
Q To whom did you belong? A Elijah Hicks.
Q Was Elijah Hicks a Cherokee citizen by blood? A Ye was.
Q Did you go out of the Cherokee Nation during the war?
A Yes, sir.
Q When did you return? A I returned back in in two years after I went up to Scott.
Q I n what year did you r etur n? A In the fall of '66.
Q Where have you lived ever since? A Oh, I have been living at different places.
Q well, tell us about it? A I stopped, no, I come on down on Big Creek and followed the creek down and I dropped in here where Si m Mosely lived and from there down to Lightning.
Q Have you lived in the Cherokee nation ever since? A Yes, sir, I have been here ever since, I have never been out as I know of.
Q Have you ever voted in the Cherokee Nation? A No, I hardly ever leave home.
Q Do y ou own any improvements on he public domain of the Cherokee Nation? A I have a little improvements .

BY COM'R NEEDLES:

Q Are you married? A No, sir; I have been married.
Q What was your wife's name? A She was raised by a white woman, her was was Rachel Carr.
Q Was she a slave? A Yes, sir.
Q To whom did she belong? A She b elonged to this woman, Rachel Carr? A Yes, sir.
Q What was your wife's name before you married her?
A Nancy Carr.
Q How many times have you been married? A I never was married but once.
Q Is Nancy Carr the mother of William? A Yes, sir.

Q Where was William born? A He was born up here, all our children were born here in the Nation.
Q Have you any proof of your marriage to Nancy?
A We was just married by a preacher.
Q Where? A I said in the Nation.
Q Well, what part of the Nation? A Up on the Creek, Big Creek.
Q Was that before the war or afterwards? A That was after the war
Q Never had but one wife? A Well, that is the only woman I had then and I haven't got any more until yet.
Q Don't care about one now do you? A No, sir, I am getting too old.

BY MR. BROWN:

Q Who married you, Uncle Jesse? A Oh, there is so many different little preachers I could not t ell you.
Q Is there any one here present that saw you married? A Yes, sir, I guess so.

BY MR. DAVENPORT:

Q Uncle Jess, who did you say you belonged to? A Elijah Hicks.
Q Where did Elijah Hicks live? A He lived down here on Dog Creek about Claremore.
Q Did you go South or North furing the war?
A You know I never went south in them days.

BY COM'R NEEDLES:

Q well, answer the question? A I went North.

BY MR. DAVENPORT:

Q Where did you go? A I went to Fort Scott.
Q When did you come back? A I come back in two years after I went there.
Q When did you go t here? A That was, as near as I can hit it, about '62 or 3.
Q Now, who came back with you? A When I came back I come back by myrself.
Q When you come where did you come? A I was aiming to come down to the old place.
Q I am asking you to where you come? A I dropped in on the head of Big Creek.
Q On whose place did you stop? A Sim Moseley's, is the first.
Q Where did you first see Harry Still? A I come on down futher on down and I dropped right out in the old Glass' place where him and his mother and stepfather lived.
Q Was Harry living there then? A Yes, sir.
Q Was Hayden living there then? A No, sir.
Q You didn't come on down to the Cherokee Nation until after Hayden moved t o the Cherokee Nation? A It was somewheres along tere.
Q Was Hayden down here when you came? A He was down here.
Q And living down there near where Hayden is now? A Yes, sir.
Q Where did you first see Jack Landrum? A I always knowed Jack.
Q Where did you first see Jack after the war? A He was living there.
Q Living near Hayden? A He was living where he is now, it is right up there close to Madden.
Q He is close to Hayden? A Yes, sir.
Q Madden don't live over a mile from Hayden? A Yes, sir.
Q He was living there when you came down? A Yes, sir.
Q Did you know Harry Still before the w ar? A No, sir.
Q Had you known Jack Landrum before the war? A Yes, sir.

BY MR. BROWN:

Q What did you say your wife was, Mr. Hicks? A Nancy Carr, she was a sister of Jess Carr.
Q Have you any other other children other than Will?
A Yes, sir.
Q That is living now? A That is older than Will?
Q Yes, sir. A That girl there is older than Will.
Q What is her name? A Melinda Hicks.

Jesse Hicks, et al.--E.

Q Were was she born? A Here.
Q In the Cherokee Nation? A Yes, sir.
BY MR. DAVENPORT:
Q You married you said I believe after the war?
A I married directly after I went to for t Scott.
Q You married in Kansas then? A I just stayed there a couple of y ears.
Q I say did you marry in Kansas? A Well, it must have been in Kansas, I was up there.
BY COM'R MIDDLES:
Q Can't you tell where you married? A Tell the fact about it I married her here in the Nation.

HARRY STILL, being sworn and examined by Commissioner T. B. Needles, d estified as follows: EXAMINATION BY MR. MR. BROWN:

Q St ate your name? A Harry still.
Q Your age? A 54.
Q Your post offic e? A Hayden.
Q Do you know the applicant, Jesse Hicks? A Yes, sir.
Q Where did you see him after the war first, after the close of the Civil War? A '68.
Q You saw him in '68? A Yes, sir.
Q Where did you see him afterthe close of the war for the first time? A '66, in the fall.
Q Where was that? A At my place.
Q In the Cherokee nation? A Yes, sir.
Q Where was he living then? A At the head of Lightning Creek.
Q Did you know his wife? A I have seen her, I don't know her.
Q Do you know whether or not they were ever married?
A I don't.
Q Do y o u know his two children, Willi e and Matilda? A Yes, sir.
Q At the time these two children were born was Applicant here and his wife li ving together as man and wife? A Yes, sir.
Q Were they recognized as man and wife in the community in which they lived? A When Jess came back here I was down to my father's a good deal an d when I saw Jess in '67 he went home and he took him e laim up on Lightning Creek; he went away and when Jess came back I didn't see him family until about '67 and then I saw Jess after he come where we was and I didn't see his family he done back to his place on Lightning Creek and I haven't seen much of him since until here lately; I know his children.
BY MR. DAVENPORT:
Q You say you were not at home when he came there?
A I was down on Grand river, I was there when he came there in '66, he was trying to get back to hi s Master's on Big Cabin Creek.
Q What time of the year was it? A It was just before Christmas.
Q Might not it have been after Christmas? A When I saw him i t was just a little before Christmas.
Q He was alone then was he? A Yes, sir.
Q Didn't have any family with him? A No, sir.
Q You didn't know him, before we the war?
A I knew him in '66.
Q That was at Fort Gibson? A Yes, sir.
Q He has been living all the time up there since? A Yes, Sir. He never has been back.
Q You don't know about his wife returning? A No, sir.

BY MR. BROWN:
Q Are you a recognized citizen of the Cherokee Nation? A Yes, sir

WILLIAM [illegible], being sworn by Commissioner Needles, testifie d as follows: BY MR. BROWN:

Q

Q State your name. A Frank Ross.
Q How old are you? A 53.
Q What is your post office? A Hayden.
Q Are you a recognized citizen of the Cherokee Nation?
A Yes, sir.
Q Does y our name appear upon the authen t icated roll of 1880?
A Yes, sir.
Q Do you know the applicant, Jesse Hicks? A Yes, sir.
Q How long have you known him? A Ever since I can recollect.
Q Do you know to whom he belonged at the beginning of the Civic war? A Belonged to Elijah Hicks.
Q Was Elijah Hicks a Cherokee citizen by blood? A yes, sir.
Q Was Jesse Hicks taken or go out of the Chero kee Nation during the war? A Yes, sir.
Q When did he return? A I saw him in the winter of '66 on Lightning Creek.
Q Do you know whether he has lived in the Cherokee Nation ever since he returned in '66? A I have saw hi m ever sinc e he returned.
Q Do you know his wife? A Yes, sir.
Q Do you know whether or not thy were ever married?
A I don:t know, they lived together as man and wife.
Q Do you know his two children, Will and Matilda? A Yes, sir.
Q Were they living together as man and wife when these two children were born? A Yes, sir.
Q Were they r ecognized in the community as man and wife?
A Yes, sir.

BY COM'R LEKDLES:

Q How long did you know them as man and wife? A Ever since '66.
Q What was your wife's name? A Nancy Oar, she used to be.
Q Is she living now? A No, sir, she is dead.
Q How long has she been dead? A I don't know exactly, she has been dead a long time.

BY MR. DAVENPORT:

Q How far did you live from where he located when he came back here? A Now?
Q Yes, now? A It is about five miles.
Q How far did you live from the place he located then when he located? A I lived there on Pryor Creek then about 30 miles I guess.
Q Now, where did Elijah Hic ks live when the war broke out?
A He was dead.
Q ~~His widow applicant belong~~
Q Who did the applicant belong to at the breaking out of the war?
A Belonged to his wife.
Q What was her name? A Margaret Hicks, old Lewis Rowe' sister.
Q Where did Margaret Hicks live at the time of the breaking out of the w war? A On Dog Creek.
Q What part of Dog Creek? A There nearest to Claremore.
Q Near what place now? A I don't know, it is not very far from Claremore.
Q Did Elijah Hicks ever live on Dog Creek?
A Yes, sir.
Q Did Margaret Hicks ever have a home on Dig Creek?
A Yes, sir, I have been to her house a good many times.
Q Do you know where that place is now? A I could go to it.
Q Do you know who owns it now? A John Hicks I think.
Q Was John Hicks a son of Elijah Hicks? A Yes, sir, and Charley.
Q Whenn did you first see the applicant after the war? A Saw him in '66.
Q What time of the year? A Along before Christmas.
Q How long before Christmas? A It was not more than two weeks.
Q Were you li ving up on? A No, I was not living up there.
Q Had you known him before the war? A I had known him all my life.
Q How near him did you live? A I lived about 12 miles from Dog Creek.

Q That was before the war broke out?
A Yes, sir, old man Ross had a ranch out there.
Q Were you one of the boys stayed out there on the ranch?
A Yes, sir.
Q You come you to remember it was about two weeks before Christmas? A When I went back home about two weeks it was Christmas day.
Q Can you remember a single incident where a thing happened just two weeks before Charistmas? A Yes, sir, lots of them.
Q Now, recall one of them? A I recollect about two weeks before Christmas I was up to Coffeyville and I got drunk and had to run and leave there.
Q you are sure it was just two weeks before Christmas?
A Yes, sir.
Q Now, what year was it the Wallace roll was made? A Along about '84 or 5.
Q When was the Kern-Clifton roll made? A About '96.
Q What year was the payment? A What payment.
Q The Clifton pay ment, the Dixon payment? A '97, I t hink.
Q You are not positive about that year i t was?
A Pretty night it.
Q That was about four years ago? A It has been a little over four.

JESSE HICKS, the applicant, recalled: BY MR. BROWN:

Q Mr. Hicks, have you drawn what is known as strip money? A Yes, sir.

The 1880 Authenticated roll and 1896 Census Roll of Freedmen of the Cherokee Nation examined and name of applicant not found thereon.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant found thereon, page 154, #3617, Jessi e Hicks, Cooweescoowee District.

BY COM'R NEEDLES:

Q Did you have a child named Jessie? A My name and hers is signed just like.
Q Did you have one named Matilda? A Yes, sir.
Q Is she living? A Yes, sir.
Q Did you have one named Tinney? A Yes, sir.
Q Is she li ving? A He is living; that is Wi llie; he has got three names, Rolly.
Q What do you call him now? A Somet imes we call him Tinney.
Q How do you want this boy enrolled? A I mostly calls him Tinney.

The Kern-Clifton Roll of Freedmen of the Cherokee Nation examined and name of applicant's child found thereon, page 154, #3620, Tennie Hicks, Cooweescoowee District.

COM'R NEEDLES: Jesse Hicks applies for the enrollment of himself and his child, William: He cannot be identified upon the authenticated roll of 1880 or c ensus roll of 1896, but he and his son are identified upon the Kern-Clifton roll according to the page and number of the roll as indicated in the Testimony; the child being identified as Tennie. He avers they he was a slave of Elijah Hicks, who was a Cherokee citizen an d was t aken out of the Cherokee Nation during the war and returned in 1866, and has lived in the Cherokee Nation ever since. Reference is made to his testimon y. He will now be listed for enrollment; with his child, William, as Cherokee freedmen upon a doubtful card. He will be notified by mail of the decision of the Commission.

FILED
JUL 26 1901
COMMISSIONER TO THE FIVE CIVILIZED TRIBES
INDIAN TERRITORY

Jesse Hicks, et al.---P.

J. Q. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly reported the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. Q. Rosson

Subscribed and sworn to before me this 16th day of July, 1901.

Commissioner.

X 13107

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED.
OCT 11 1901

ACTING CHAIRMAN.

Department of the Interior,
Commission to the Five Civilized Tribes,
Vinita, I. T. October, 5th 1901.

SUPPLEMENTAL TESTIMONY in the matter of the application of Jesse Hicks et al., C. F. D. 1007.

Appearances:
James S. Davenport for the Cherokee Nation,
Mellette & Smith for the applicants.

DOUGLAS WALKER being first duly sworn by Commissioner T. B. Needles testified as follows on the part of the Cherokee Nation.

( By Mr. Davenport )
Q What is your name? A Douglas Walker.
Q Where do you live? A In Linn County Kansas.
Q What is your post office address? A Mound City, Kansas.
Q How old are you? A 50.
Q How long have you been living in Mound City,Knabas? A Since '57
Q Since you have been living in Mound City Kansas, did you get acquainted with a colored man named Jesse Hicks? A Yes sir.
Q When did you first get acquainted with him? A In '69 or 70.
Q How near were you living to him at that time? A On my first acquaintance with him he was living in Bourbon County,four or five miles from me.
Q Did he live nearer to you after that? A Yes sir.
Q How long after you first got acquainted with him before you lived nearer to him? A In '70 or '71.
Q Did he own property there? A Yes sir.
Q What kind of property? A Land.
Q What kind of land? A 40 acres.
Q Do you know from whom he bought it? A He took a homestead on it.
Q How long did he reside on this homestead? A As near as I can recollect,—let me count a little——He homesteaded that in '77 or '8 and he owned it——and he held it until the fall of '89.
Q Do you know whether or not he voted while he was living there in Kansas? A I am not sure.
Q Did he have a family there? A Yes sir.
Q What was his wife 's name? A Nancy.
Q Have any children? A Yes sir.
Q Do you know their names ? A Yes sir.
Q What were their names? A Matilda was the oldest girl.
Q You say he moved away from there, when? A Fall or the beginning of the winter of '89; he sold the tract of land and moved out of that neighborhood.
Q You first got acquainted with him in what year? A In '69 or '70
Q From the time you got acquainted with him until '89 where did he live? A In Bourbon and Linn Counties; he rented until he took this homestead and then he lived on that.
Q Did he have his family on this land? A Yes sir.
( By Mellette )
Q Did you know him all the time from '69 or '70 until he left? A Yes sir.
Q You say he lived in two counties? A Yes sir.
Q Did you know him in both counties? A Yes sir I was close to the line.
Q Did he have a house? A He was getting out coal when I first knew him and he afterwards moved in our neighborhood and rented land, he rented land from me for one year.
Q Do you know where he was in '66? A No sir.
Q You know that he did move from to this country in '89? A I said that he moved away from there.
Q Well you know he came to this country dont you? A That is where he said he was going.
( By Davenport )
Q You spoke about renting some land to him, when did he rent land from you? A In '75 for one year.

JAMES WALKER being first duly sworn by Com'r T. B. Needles, testified as follows on the part of the Cherokee Nation:

( By Davenport )
Q What is your name? A James Walker.
Q How old are you? A I am in my 55th year now.
Q Where do you live? A In Linn County Kansas at present.
Q Did you ever live near Mound City, Kansas? A Four miles due south of it.
Q How long did you live there? A Ever since '57 I taken a claim there and went on it in '57.
Q Did you get acquainted with Jesse Hicks, a colored man there? A I knew him before he moved there, I knew him in Fort Scott.
Q When did you get acquainted with him at Fort Scott? A During the war.
Q When did he move from Fort Scott to Mound City? A I don't know the exact date but I can remember seeing them, I was in the timber and saw them, and I knew his wife.
Q What was his wife's name? A Nancy, is what we called her, she was a servant in the boarding house where I staid in Fort Scott.
Q What years did you live in Fort Scott? A I began working there in the fall of '63 and I think I worked five or six summers there off and on.
Q What portion of the time that yous were in Fort Scott did you see Nancy and Jesse Hicks there? A It was as late as the Price raid.
Q Towards the close of the war? A Yes sir.
Q Then you went to Mound City? A That was my home all the time.
Q You don't know exactly what year they came to Mound City? A No sir
Q Do you know how long they lived there at Mound City? A 10 or 12 years.
Q Do you know of their having lived near Douglas Walker's place? A I believe they did live there temporarily for a few months in an old house and they afterwards got a place a mile or two from there.
Q Who did he get his property from? A The United States .
Q How long did he stay there on that homestead? A Until he came here
Q How long since he came here? A Either just before or just after Duncan did.
Q Who do you mean? A Joe Duncan.
( By Mellette )
Q He must not have homesteaded that place until about '77 or '8? A No sir I dont think he did,but it might have been sooner.
Q He was living first here and then there at different places until he homesteaded that place and he lived on that place about 12 years you say? A Yes sir.
Q You don't know where he was in '66,'67 or '68? A Not very dead certain; I knew of him getting out coal on the Osage before he came there.

Mrs.Miama Walker, being first duly sworn by Com'r T. B. Needles testified as follows on the part of the Cherokee Nation:

( By Davenport )
Q What is your name? A Mrs. Miama Walker.
Q How old are you? A 76
Q Where do you live? A Linn County Kansas
Q What is your post office address? A Blue Mound, Kansas
Q You are the wife of James Walker? A Yes sir.
Q Have you lived near Mound City Kansas? A Yes sir.
Q While living there did you get acquainted with a colored man named Jesse Hicks? A Yes sir well acquainted .
Q Where were you living then? A On our farm close by there.
Q Did you know his wife? A Yes sir,Nan.
Q Did you know any of their children? A Jess Tilly and Charles.
Q Do you know when they first lived near you? A '67 or something like that, I dont remember exactly.

Q After the war? A Yes sir, for eight or nine years I guess I dont know exactly.
Q Did you know them before they moved there? A No sir.
Q Do you know how many years they lived there near you? A I dont expect I can tell exactly how long to be very correct.
Q Do you think they lived right there near you more than a year? A Yes sir five or six years.
( By Mellette )
Q You say it might have been eight or nine years ~~that you~~ after the war that you knew them--that you got acquainted with them? A I cant say for certain.
Q It was some time after the war? A Yes sir.

NEV CAMPBELL, being first duly sworn by Com'r T. B. Needles, testified as follows: ( on the part of the Nation )

( By Davenport )
Q What is your name? A Nev Campbell.
Q Where do you live? A Mound City, Kansas.
Q How old are you? A 57.
Q How long have you lived at Mound City Kansas? Or near there? A 55 years.
Q Since you have been living there or near there,did you get acquainted with a colored man named Jesse Hicks? A I got acquainted with Jesse Hicks--I dont remember exactly when.
Q Did you know his family? A I don't know that I ever got acquainted with his family.
Q Do you know where he was living when you got acquainted with him? A Yes sir.
Q Where? A On a forty acre tract of land about six miles south of Mound City and about six miles east of where I lived.
Q What year was that? A I got acquainted with him and knew him, and knew the place in '75,'6 or '7, I cant say exactly which.
Q Do you know when he left there? A Yes sir he left there some where close to the '80's in '78 or '9.
Q You don't mean '78 or '9? A No sir '88 or '89
Q Do you know where he went from there? A Only by hearsay that he came here to the Territory.
Q You didn't know him before he came to the Mound City neighborhood? A No sir.
( By Mellette )
Q You don't know that the Jesse Hicks you know in Kansas is the Jesse Hicks who has applied here for enrollment? A No sir.

Robert Flewring, being first duly sworn by Com'r T. B. Needles testified as follows on the part of the Cherokee Nation-

( By Davenport )
Q What is your name? A Robert Flewring.
Q What is your age? A I am 80.
Q Where do you live? A Mound City, Kansas.
Q How long have you lived at Mound City Kansas? A 42 years,around in through there.
Q Since you have been living there did you get acquainted with a colored man named Jesse Hicks? A Yes sir.
Q About what year did you get acquainted with him? A Dont Didn't get personally acquainted with him until some time in the '70's; I knew of him before but never had any business with him until in the '70.s
Q Where was he living then with reference to Mound City? A On Elk Creek four and a half miles south of Mound City.
Q Did you know his family? A Some when I saw them.
Q Do you know how long he continued to live there in that neighborhood after you got acquainted with him ? A Well about.
Q About how many years? A I think he was there until about '80, I know six from '74 to 80 anyway.
( No Questions by Mr. Mellette.)

-4-

This testimony will be filed also in the case of Matilda Hicks, Cherokee Freedman Enrolled Card No. 1819.

- - - - - - - - - - - -

Chas. von Weise, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he recorded in full all the proceedings in the above cause and that the foregoing is a full true and correct transcript of his stenographic notes thereon.

Chas. von Weise

Subscribed and sworn to before me this the 6th of October, 1901.

Commissioner.

Page D 280

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., May 31, 1902.

In the matter of the application of PERRY ADAMS for enrollment as a Cherokee Freedman:

Applicant appears by Mellette & Smith; Cherokee Nation, by W. W. Hastings.

By Mr. Smith:

The applicant moves the Commission to make the certified copy of the decree of the Court of Claims in the case of Lucy Holmes, Trustee for the Freedmen, vs. The Cherokee Nation, No. 17200, filed in the Mariah Hayden case, D. D. 496, a part of the record in this case and the cases hereinafter mentioned by reference to the said case of the said Mariah Hayden, and it be deemed necessary that a copy of the said decree be filed in this case and in the following cases, to-wit:

Tamsy Ricks, D 1007,

By W. W. Hastings:

Comes now the Cherokee Nation and objects to the introduction of the decree because, First: It does not show that the applicant was a slave of the Cherokee Nation at the beginning of the war, nor that he returned within the time specified in the treaty of 1866, or that he had been a continuous resident of the Cherokee Nation since that time, or that he is a descendant of such a person. Second: Because the same is incompetent, irrelevant and immaterial, and does not tend to prove an issue in this case. Third: Because the Commission [illegible] of all laws, treaties and decrees made [illegible] the determination of the right of any person who makes application for citizenship. Fourth: The Cherokee Nation objects to the filing of a certified copy of this decree in the case of an applicant unless the same is called and filed in each individual case.

Commission:

The motion of the attorney for the applicant will be entertained and the decree of the Court of Claims filed in the case of Mariah Hayden will be made a part of the record by reference in all the cases above named, the exception of those which come within the provisions of the temporary injunction recently granted by Judge Gill of the United States Court, of the Northern District Indian Territory.

Mr. Smith:

The applicant further moves that as to the above [illegible] waives including the [illegible] cases that counsel for [illegible] to be allowed [illegible] to [illegible] of the [illegible] all of the record [illegible] the papers already [illegible]

in the case of Moses Whitmire, trustee, vs Cherokee Nation, on file in the Court of Claims to the counsel of the Cherokee Nation if it is desired to do so.

W. W. Hastings:

The Cherokee Nation most certainly strenuously objects to the allowance of this permission or to the granting of this request for the reason that most of these applicants have had more than a year in which to file all of their testimony that they desired to file to make out their case before the Commission and that notice was given them all by agreement in March last, that the cases would be closed so far as testimony was concerned by the special permission of the firm of attorneys representing these applicants, on the 31st day of May, 1902, and that this being the 31st day of May, 1902, we say that under the rulings of the Commission, that under the agreement between the attorneys, that the testimony in all these cases is to close and should be closed by the Commission, and that no extension should be granted in any case and no case reopened unless there is some special and particular reason shown either by the Cherokee Nation on the one side or the applicant on the other why an extension of time is necessary or desired.

The Commission:

The law provides that the roll of Cherokee freedmen shall be made in strict compliance with the decree of the Court of Claims rendered the 3rd of February, 1896, and as the Commission must take judicial notice of the judgment roll of said Court in the proceedings referred to the motion of attorneys for applicants for additional time to file certified copies of the proceedings of the said Court is denied.

---

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings in the above case, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

(Signed) E. G. Rothenberger.

Subscribed and sworn to before me this 14th day of June, 1902.

(Signed) P. G. Reuter,
Notary Public.

(SEAL)

---

I, E. C. Bagwell, a stenographer to the Commission to the Five Civilized Tribes, on oath states that the above and foregoing is a true and perfect copy of the original testimony in the above entitled cause as filed with the Commission, which copy was made by me.

E. C. Bagwell.

Subscribed and swron to before me this July 29, 1902.

P. G. Reuter
Notary Public.

Cherokee Freedmen D-1067.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

---

In the matter of the application for the enrollment of Jesse Hicks and his minor son, William Hicks, as Cherokee Freedmen.

DECISION.

---

The record in this case shows that on July 1, 1901, Jesse Hicks appeared before the Commission at Muskogee, Indian Territory, and made personal application for the enrollment of himself and his minor son, William Hicks, as Cherokee Freedmen. Further proceedings in the matter of said application were had at Vinita, Indian Territory, on October 8, 1901.

The evidence in this case shows that Jesse Hicks was the slave of a Cherokee citizen at the commencement of the rebellion; that he left the Cherokee Nation during the rebellion but returned thereto and established a residence therein within the time specified in the decree of the Court of Claims rendered on February 3, 1896, in the case of Mason Whitmire, trustee, etc., vs. the Cherokee Nation, et al., for the return of Cherokee freedmen to said Nation.

The evidence further shows that the said Jesse Hicks remained in the Cherokee Nation for two years or more following the date of his return thereto, as above mentioned, and that he then removed with his effects to the State of Kansas, where he entered a Government homestead and established a residence on which he lived from about 1868 until about 1888, when he returned to the Cherokee Nation, where he has since resided. The applicant's son, William Hicks, being a minor, his residence is determined by that of his father.

Section two of Article one of the Constitution of the Cherokee Nation provides:

> "Whenever any citizen shall remove with his effects out of the limits of this Nation, and become a citizen of any other government, all his rights and privileges as a citizen of this Nation shall cease."

It is, therefore, the opinion of this Commission that the application for the enrollment of Jesse Hicks and William Hicks

as Cherokee freedmen should be denied under the provisions of law above quoted, and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES,

Chairman.

Commissioner.

Commissioner.

Commissioner.

Muskogee, Indian Territory,
MAR 11 1904

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

AUG 16 1901

ACTING CHAIRMAN.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, August 8th, 1901.

Received of the Commission to the Five Civilized Tribes, one copy of the original testimony of July 1st, 1901, in the matter of the application of Jesse Hicks et al for enrollment as Cherokee Freedmen.

Louis T. Brown
Agent for Applicants.

Cherokee Freedmen #D1007.

N&D 11 C 1

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the ..... day of ..... A. D. 1901

Given under my hand this ..... day of ..... A. D. 1901.

.....
Marshal for the Cherokee Nation.

---

I, the undersigned attorney for the within named applicant hereby accept service of the within notice on this the 18 day of Sept, 1901.

Access Chisholm

Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the ..... day of ..... A.D.1901

.....

Subscribed and sworn to before me this ..... day of ..... A.D.1901.

.....
Notary Public.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
SEP 18 1901

ACTING CHAIRMAN.

# NOTICE!

*IN THE MATTER OF* the application of Jesse Hicks for enrollment as a Cherokee citizen:

Case No. D 1007

To ~~Jesse Hicks or L. T. Brown Agt.~~

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee citizen at the office of the United States Commission to the Five Civilized Tribes in the town of **Fort Gibson, I. T.** Indian Territory, on ~~Sept. 26th at 8 o'clock A. M.~~ or from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee citizens.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this 9 18 1901.

L B Bell

W. W. Hastings

*Attorneys for the Cherokee Nation.*

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

OCT 2 1901

Acting Chairman.

F. D. 1007

F. D. .....

INDIAN TERRITORY,
CHEROKEE NATION.

I hereby certify that I served the within notice on .....

.....

by delivering a true copy thereof on the .....day of ..... A. D. 190....

Given under my hand this..... .....

day of.....A. D. 190....

.....

Marshal for the Cherokee Nation.

---

I, the undersigned attorney for the within named applicant, hereby accept service of the within notice on this the SEP 30 1901 day of ....., 190....

Hudson & Brown

Attorney for applicant.

---

UNITED STATES OF AMERICA,
INDIAN TERRITORY,
NORTHERN DISTRICT. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to .....

.....

on the .....day of ..... A. D. 190....

.....

Subscribed and sworn to before me this .....

.....

Notary Public.

# NOTICE!

*IN THE MATTER OF* the application of Jesse Hicks
for enrollment as Cherokee Freedmen:
Case No. F. D 1007

To Jesse Hicks or Hellette & Smith his Attys.

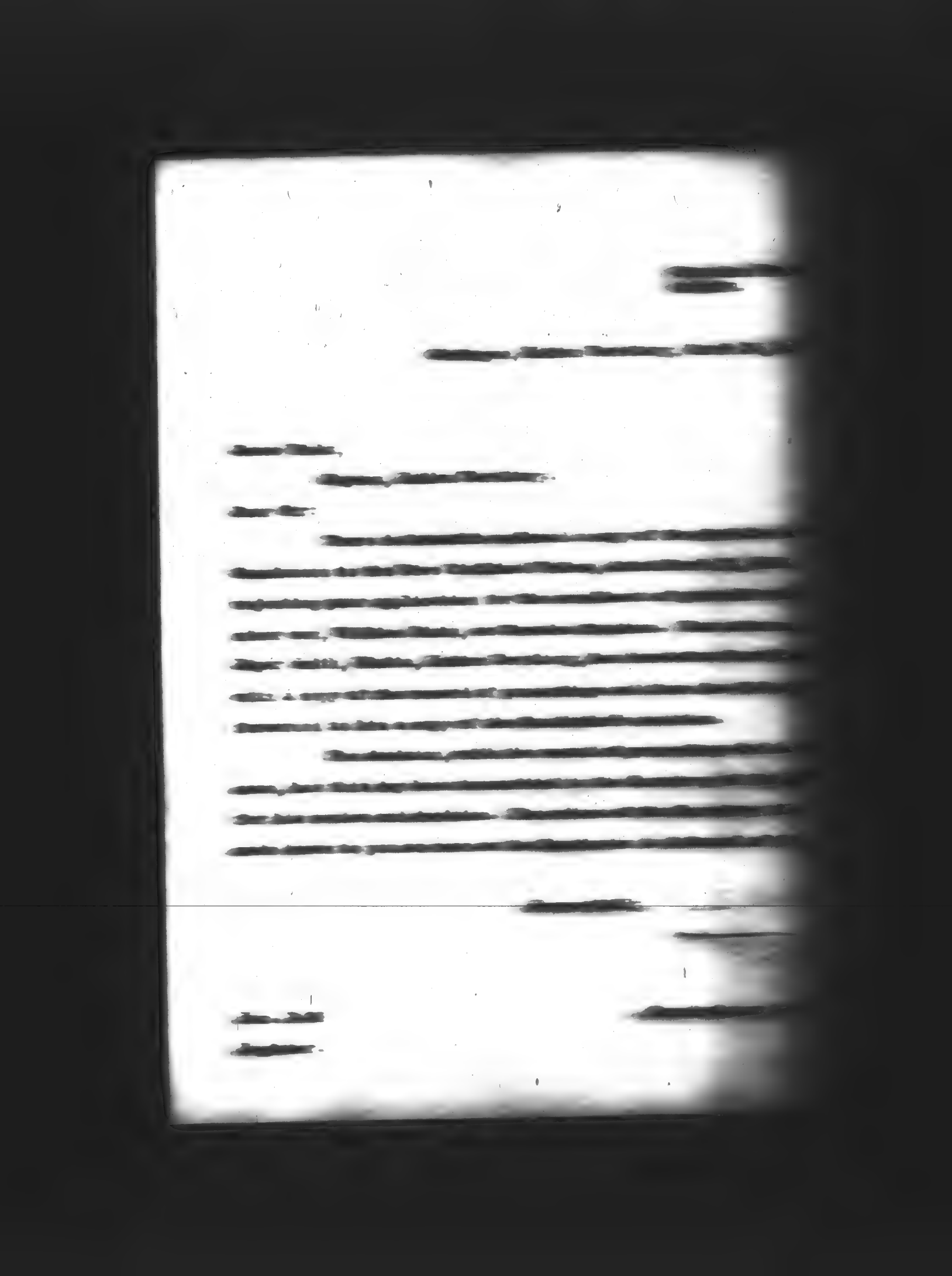
You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita, Indian Territory, Indian Territory, on Oct. 5th at 8 o'clock A. M. and from day to day thereafter until the same can be heard by said Commission during the usual business hours of said Commission for the taking of testimony both for and against applications for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands this Sept. 30th 1901.

L. B. Rell

D. W. Hastings

[illegible]
Attorneys for the Cherokee Nation



[redacted]





Refer in reply to the following:
Land. 18424-1904.

Copy.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 16, 1904.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose herewith, a report from the Commissioner to the Five Civilized Tribes, dated March 15, 1904, transmitting the record of the application of Jesse Hicks, and his minor son, William Hicks, for enrollment as Cherokee Freedmen.

March 11, 1904, the Commission found that the applicants were not entitled to enrollment as Cherokee freedmen.

The evidence shows that the applicant, Jesse Hicks, was the slave of a Cherokee citizen at the commencement of the war of the rebellion; that he left the Cherokee Nation during the rebellion; that he returned to the Cherokee Nation and established a residence therein prior to February 11, 1867, and he remained for a period of two years or more; that he removed with his family and effects to the State of Kansas and took a claim under the United States homestead laws and established a residence thereon, for a period of about twenty years; that about the year 1896, he returned to the Cherokee Nation, where he has resided up to the date of the decision.

The applicant, William Hicks, being a minor his domicile is determined by that of his father, and having been born since February 11, 1887, has no right as a Cherokee Freedman except as derived from his father, Jesse Hicks.

In view of the record and of the manifest intention of the applicant, Jesse Hicks, to expatriate himself and family from the Cherokee Nation, the approval of the Commission's decision adverse to the claimants, is recommended.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

M.M.M.

W.

D.C. 21471-1904. ( COPY )

I.T.D. 4802-1904. W.C.F. J.P. FHE

L.R.S.

DEPARTMENT OF THE INTERIOR,

WASHINGTON. June 20, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

March 15, 1904, you transmitted the record in the matter of the application of Jesse Hicks for enrollment of himself and his minor son, William Hicks, as Cherokee freedmen (F.D.-1007), including your decision of March 11, 1904, rejecting said application.

Reporting in the matter June 10, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department concurs in said recommendation, and your decision is hereby affirmed.

Respectfully,

E. A. Hitchcock,

Secretary.

1 inclosure.

Cherokee Freedmen
D 1097

Muskogee, Indian Territory, June 30, 1906.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 11, 1906, rejecting the application for the enrollment of Jesse and William Hicks as Cherokee Freedmen, was affirmed by the Secretary of the Interior on June 30, 1906.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 1007

Muskogee, Indian Territory, June 30, 1904.

Louis T. Brown,

Agent for Jesse Hicks, et al.,

Vinita, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 11, 1904, rejecting the application for the enrollment of Jesse and William Hicks as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 20, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D 1007

Muskogee, Indian Territory, June 30, 1904.

Jesse Hicks,

Hayden, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision dated March 11, 1904, rejecting your application for the enrollment of yourself and your minor son, William Hicks, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 20, 1904.

Respectfully,

Commissioner in Charge.

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, May 26, 1906.

Johnc Hicks,

Hayden, Indian Territory.

Dear Sir:-

You are hereby advised that the motion filed by your attorneys September 7, 1905, for a review in your Cherokee freedmen enrollment case, was dismissed by the Department May 2, 1906.

Respectfully,

W. O. Beall.

Acting Commissioner.

Muskogee, Indian Territory, May 28, 1906.

Kline & Kaiger,
Attorneys for Eliza A. Arnold, et al.,
Vinita, Indian Territory.

Dear Sirs-

You are advised that this office is in receipt of Departmental letter of May 2, 1906, a copy of which is enclosed herewith, denying motions filed by you September 7, 1905 for review in the Cherokee Freedmen enrollment cases of Eliza A. Arnold and others named in said letter.

Respectfully,

Commissioner.

MCP

Muskogee, Indian Territory, May 29, 1906.

Bell, Hastings & Davenport,

Attorneys for Cherokee Nation,

Vinita, Indian Territory.

Dear Sir:-

You are advised that this office is in receipt of Departmental letter of May 2, 1906, a copy of which is enclosed herewith, denying motions by Blue & Bulger, filed September 7, 1905, for review in the Cherokee Freedmen enrollment cases of Eliza A. Arnold and others named in said letter.

Respectfully,

Commissioner.

LMC

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
JUL 1 1901

ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date July 1, 1901

Post Office Fayetteville Ark.

District Coo

1. Name Jesse Hicks Age 74

Owner's name Elijah Hicks Citizenship Cherokee

Year K.C. Page 54 No. 3817 District Coo

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

1. Name of wife ..... Age .....

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

Names of Children:

2. William Hicks Year K.C. Page 54 No. 3820 Dist. Coo 19

4. ..... Year ..... Page ..... No. ..... Dist. .....

5. ..... Year ..... Page ..... No. ..... Dist. .....

6. ..... Year ..... Page ..... No. ..... Dist. .....

7. ..... Year ..... Page ..... No. ..... Dist. .....

8. ..... Year ..... Page ..... No. ..... Dist. .....

9. ..... Year ..... Page ..... No. ..... Dist. .....

10. ..... Year ..... Page ..... No. ..... Dist. .....

11. ..... Year ..... Page ..... No. ..... Dist. .....

12. ..... Year ..... Page ..... No. ..... Dist. .....

Application made by Mrs. I Stenographer L. L. Brown

1 Cn. N.C. Indian Jessie Hicks

2 " " " " Jennie "

Represented by Louis T. Brown

Dead Roll

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Jesse Hicks,
Hayden, I. T.
Cherokee-F-D-1007.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

HAYDEN JUL 3 1906 A.M. IND. T.

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Indian Territory.

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Cher. Fr. R. 418

Cherokee Freedmen-R-335.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Charley Bowland et al. as Cherokee Freedmen.

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O R D E R.

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It is ordered that copies of the testimony taken at Fort Gibson, Indian Territory, on September 4, 1901, in the application of Martha Albert et al. for enrollment as Cherokee Freedmen, case number R-418, be filed with, and made a part of the record in the application of Charley Bowland et al., for enrollment as Cherokee Freedmen, case number R-335.

Commissioner.

Muskogee, Indian Territory,

DEC 21 1904

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FILED
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To be filed in case of Martha Albert et al C er. Freedman D 42:

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Robert Barnes for the enrollment of himself as a Cherokee Freedman; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Q Give me your full name? A Robert Barnes.
Q How old are you? A 33.
Q What is your postoffice? A Foreman.
Q In what district do you live? A Sequoyah.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A My youngest sister; all the children is grown but my sister.
My mother is dead; I am applying for my brothers and sisters.
Q Why don't they apply for themselves? A Well, I am putting in the case for us.
Q Are your brothers and sisters all of age? A Yes sir, all but one.
Q Since they are of age why don't they apply for themselves?
A Well they will do that.
Com'r: The law requires that unless there is some very strong reason to the contrary.
Q You have one sister under age? A Yes sir.
Q Does she live with you? A Lives with my father.
Q Where is your father? A He is at home.
Q He should apply for his child? A He don't claim any right himself.
Q Yes but he is the father, and he should apply for his child.
Q You apply then for yourself; how long have you lived in the Cherokee Nation? A Always.
Q All your life? A Yes sir.
Q Give me the name of your father? A Sam Barnes.
Q He is alive? A Yes sir.
Q Give me the name of your mother? A Jennie Barnes.
Q Is she alive? A No sir, she is dead.
Q How long has she been dead? A About ten years.
Q You say your father is not a Cherokee Freedman? A No sir.
Q Was your mother a Cherokee Freedman? A Yes sir.
Q You have never lived anywhere except in the Cherokee Nation?
A No sir.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

1896 census roll of citizens of the Cherokee Nation examined and name of applicant not identified thereon.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and name of applicant not identified thereon.

Q You don't appear to be upon any roll of the Cherokee Nation?
A I am on the Wallace roll.
Q Could you have been enrolled under any other name? A No sir.
Q Has your mother lived with your father ever since they were married? A Yes sir.
Q Willis, Charley and Turner Barnes, are they your folks? A No sir
Q How old was your mother when she died? A I think she was about 42 or 3.
Q Where was your mother born? A In Going Snake.
Q Was she a slave before the war? A Yes sir, said she was.
Q To whom did she belong? A Johnson Whitmire.
Q Where was she during the war? A I don't know sir.
Q Where were you born? A I was born in Sequoyah District.
Q Do you know where your mother was in '84 or '87? A Why she said she was living down there near Cherokee Station.

Q She was married to your father at that time? A Yes sir.

Com'r: Well, you see, so far we are without any evidence except hearsay evidence, that you have, about your mother being either a slave before the war, having been set free in the Nation in any way, and about where she was during the war, and when she got back; you see you were not born until '67 or '68, according to your age, and you are not on any roll, and you had better have your father come in and apply for this child, and give testimony also in your case; he may be able to throw some light on it.

Q Is there no witness you want to bring in?A Yes sir, Mat Albert.

MARTHA ALBERT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Give your name there, please? A Martha Albert.
Q How old are you? A I am about 57 or 8 years old.
Q What is your post-office? A Melvin.
Q In what district do you live? A Live in Tahlequah District.
Q You want to give some evidence here in the application of Robert Barnes don't you? A For enrollment? A Yes sir.
Q You have made an application for yourself and two children? A Yes sir.
Com'r: This is D 42.)
Q A trouble in your own application appeared to be to establish when you came back to the Cherokee Nation after the war?
A I came back here two months before the '66 treaty went off.
Q You know Robert Barnes do you? A Yes sir.
Q How long have you known him? A I have knowed him ever since he has been born; he was my sister's child.
Q Child of your sister Jennie? A Yes sir.
Q She belonged to Johnson Whitmire? A Yes sir.
Q Were you and she taken out of the Cherokee Nation during the war? A We went to Red River in the Choctaw Nation.
Q You didn't go across the river? A No sir, we never crossed into Texas.
Q Was your sister there with you? A Yes sir.
Q And both of you belonged at that time to Johnson Whitmire, did you? A Yes sir.
Q Well did she come back with you? A Yes sir.
Q Johnson Whitmire brought you both back?A No sir, my father brought us back.
Q You and your sister came back together? A Yes sir.
Q Whatwas the father doing down there? A Well we went South.
Q Was he working down there? A Yes sir.
Q On a plantation?A Yes sir, he was a free man; he always just dug wells around for people.
Q Your father was a free man? A Yes sir.
Q But your mother was a slave? A Yes sir.
Q Did she come back with you and your sister? A Yes sir.
Q What business did you say your father did? A He dug wells and worked around for people.
Q And he brought your mother and both of you back? A Yes sir.
Q In what year did he bring you and your sister?A 1866 when I come back here.
Q What time of the year was it? A It was in the fall of the year.
Q Where did your sister locate when she came back? A She located down here close to Cherokee Junction.
Q Were you in the same neighborhood with her? A Yes sir, right in the same yard.
Q Were you on a plantation or about the town? A I was on Cabin Creek Place.

Q On a farm? A Yes sir.
Q He is not living now, Cale Starr, is he? A I don't know.
Q Any of his children living? A I don't know.
Q Is his wife living? A I don't know that, neither; I have been living in Sequoyah.
Q Are there any of the people who were living there on that place at that time living now? A No sir, not on that place; there wasn't no one there but us working the farm, rented the place.
Q You and your sister were on that place? A Yes sir.
Q But there were no colored people on it but just you and your people? A Yes sir.
Q Well now how many people were in your family at that time, you and your sister and who else? A Me and my sister and our husbands.
Q Was her husband then living, Sam Barnes? A Yes sir.
Q And your husband, is he living? A Yes sir.
Q Has your husband testified in your case? A No sir.
Q Why didn't you bring your husband? A He is in here somewheres.
Q Your sister's husband is not here is he? A No sir.
Q Did your husband go around the country digging wells after he got back? A My father.
Q Was he with you when you got back? A Yes sir, brought us back.
Q Did he go around the country digging wells? A No sir, he didn't dig any wells after he got back.
Q What did he do? A He farmed.
Q Was he living with you there on Mr. Starr's place? A Yes sir.
Q Your father is dead now? A Yes sir.
Q Who had farms there in that neighborhood? A Old Uncle Jack Campbell.
Q Is he alive? A No sir, he is dead.
Q Anybody else? A Yes sir, Dave Choate had a place right there joining.
Q Names Chouteau? A Named Choate, Cherokee.
Q Is he living? A I don't know.
Q Do you know anybody who is living now that was living in that neighborhood there and knew you all? A Yes sir.
Q Well give their names? A Eliza Franklin, it aint Franklin now; that was her name when I knew her; her name is Eliza McCrady now.
Q Is she about the room now? A No sir, she is living down in Sequoyah ; she is a Cherokee.

Examined by Cherokee Representative, W.WHastings:

Q Where were you married? A We married in slavery time; we married in the Choctaw nation.
Q Your husband came back with you also? A Yes sir.
Q I thought you said your father brought you back? A Well my father was the leading one brought us back.
Q Where was your sister married? A She was married here under the Cherokee law.
Q She wasn't married down there? A No sir.
Q Her husband didn't come back with her? A No sir.
Q Where was Robert Barnes born? A Down in Sequoyah.
Q On what place? A Right there on the Cale Starr place.
Q That's how far from Ft. Smith? A About four miles.
Q And by the river, on this side? A Yes sir.
Q You say Cale Starr was living there at the time? A Yes sir, old man Ellis Harlin was living there.
Q He had a family? A Yes sir.
Q One of them named Rena? A Yes sir.
Q She was living there? A Yes sir.
Q Another one named Ruth? A That's right.
Q She was living there at that time? A Yes sir.
Q And a boy named Oge.
Q And Oge was living there at that time? A Yes sir.

Q He knew your people now? A Yes sir.

Examined by Commissioner Breckinridge:

Q How many children have you? A I have got six.
Q Where was your oldest child born? A Born in Sequoyah.
Q After you got back after the war? A Yes sir.
Q How old is that child? A About 37 years old.
Q How long had you been married down in the Choctaw Nation when you got back? A We married time of the war.
Q Along towards the last of the war? A Yes sir.
Q How long had you been married when your oldest child was born?
A I couldn't go to work to tell you about that.
Q Been several years hadit? A Yes sir.
Q How long had you been backhere when your oldest child was born?
A She was born in '67.
Q How long had you been back here when she was born? A Well I say she was born in '67.
Q Who attended on you at the time of the birth of that child?
A The woman who attended on me is dead, Mandy Benton's mother.
Q Some of the old people living who remember when that child was born? A No sir, none that I know of; there wasn't no colored folks in there hardly then.
Q You don't remember how long you had been back in the Cherokee Nation when that child was born? A Yes sir.
Q How long? A She was born in '67.
Q I didn't ask you what year she was born in, I asked you how long you had been in the Cherokee Nation when that child was born?
A Well I tell you she was born the year after I come back here.
Q The next year after you got back? A Yes sir.
Q Was the child born in the spring, summer or fall? A Born in January.
Q And what time of the year was it you got here? A I got here in the fall of 1866.
Q In the fall before the January this child was born? A Yes sir.

COLLY ALBERT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Colly Albert, is the way I always sign my name.
Q How old are you? A I am 61.
Q What is your post-office? A Melvin.
Q In what district do you live? A I live in Illinois District.
Q You want to give some testimony in the case of Robert Barnes do you, who applied for enrollment? A Well, I can give some.
Q Well you are not here to apply for your own enrollment are you?
A No sir, not now; not at present.
Q Are you the husband of Martha Albert? A Yes sir.
(Com'r: Her case is D 42.)
Q Do you know Robert Barnes? A Yes sir.
Q How long have you known him? A I have been knowing him ever since he was born.
Q How long have you lived in the Cherokee Nation? A I have been raised and born here in the Cherokee Nation.
Q Were you a slave in old times? A Yes sir.
Q To whom did you belong? A Old lady Bushyhead, Nancy.
Q Where were you during the war? A I was down on Red River.
Q In the Choctaw Nation? A Yes sir.
Q Where did you live before that, on Nancy Bushyhead's place?
A Yes sir.
Q In what district was that? A In Goingsnake District.
Q You married your wife, Martha, down there did you, on Red River?
A No sir, I married her after I come back; I lived with her but

I didn't marry her until afterwe come back to the Cherokee Nation.
Q How long after you came back to the Cherokee Nation was it before you and she married? A About three years I guess; I joined the church and they wouldn't let me live in the church until I married.
Q Did you and she have any children until after you were married? A Yes sir, she had two.
Q Two before you were married? A Yes sir.
Q That is, before you were married the way the church made you marry? A Yes sir.
Q You knew your wife's sister, Jennie? A Yes sir.
Q She was married to Sam Barnes was she? A Yes sir.
Q Did you come back with your wife after the war when she came from the Choctaw Nation? A I come a little aheadof her; a few days.
Q Just a few days? A Yes sir, she come with her father.
Q Did her sister, Jennie come with her? A Yes sir.
Q She and your wife came together? A Yes sir.
Q Her sister Jennie was the mother of this Robert Barnes? A Yessir
Q What were you doing down there in the Choctaw Nation, farming
A Yes sir, worked on the farm awhile.
Q Well you were working on a farm all the time weren't you? A Well some times I was driving a team.
Q Did you make a crop of cotton? A No sir, corn crop.
Q Where did you locate when you came back from the Choctaw Nation?
A Near Cherokee Station there on Caleb Starr's place.
Q What time of the year was it you got back there? A It was along in August some time in August, I disremember just what day in August it was, but we got back there in August.
Q You think that was in what year? A 1866.
Q What fixes that on your mind? A Well I kept count of how long the war run; I knowed what year the war come in on.
Q How long had the war been closed when you came back? A I come back next spring after the war closed.
Q You fixed it on your mind that way? A Yes sir, that's the way it was.
Q You know this woman Jennie Barnes, mother of Robert Barnes, whom did she belong to before the war? A I didn't know who she belonged to; I know who they always said she belonged to; she belonged to same man my wife did.
Q What was his name? A Johnson Whitmire; I never got personally acquainted with them until I got down there on Red River.
Q Was Jennie Barnes older or younger than your wife? A She was youngest, her mother and father said.
Q Was she married there in the Choctaw Nation? A No sir, I don't think she was until we come back to the Cherokee Nation I think.
Q Married after she got back? A Yes sir, as well as I recollect. that's what they told me; I wasn't there when they married.
Q But you were seeing them all the time weren't you? A Yes sir.
Q Did you see her very soon after she was said to have been married? A She staid there with me awhile on the Caleb Starr place.
Q Where were you when she married? A I was on the Caleb Starr place.
Q Where was she when she married? A She was over in Ft. Smith I think, hired out.
Q And there is where she married Sam Barnes? A Yes sir, I think so
Q How long was that after you had got back from the Choctaw Nation?
A It was about one year I think, not quite a year; it was about six months.
Q She staid with you awhile on the Starr place and then hired to do some work over at Ft. Smith and there married? A Yes sir.
Q And where did she live after that? A Lived up on Lees Creek there close by me.
Q How long did she stay at Ft. Smith? A I don't know exactly. not very long though; I don't recollect now just how long it was.

Q How long had she been married before you saw her; how long was it after her marriage that you saw her? A It was about two or three months I guess.
Q You saw her two or three months after she was married? A Yes sir.
Q Where did you see her? A She come over to my house there on a visit; on the Caleb Starr place.
Q What creek was that you say she lived on at one time? A Lee's Creek.
Q How long had she been married when she began living on Lee's Creek? A She had been married as well as I can recollect, then about four or five years.
Q And she had quit work in Ft. Smith then had she, and gone to live on Lee's Creek? A Yes sir.
Q What was her husband doing all that time? A Why he was farming he went to farming after he come over into the Cherokee Nation.
Q But during that four or five years before he lived on Lee's Creek, you don't know what he was doing do you? A Yes sir, he moved over there and was hired out.
Q Moved over where? A The other side of Ft. Smith in the coal bank.
Q He worked there until he moved up on Lee's Creek? A Yes sir.
Q Now Sam Barnes, her husband, he makes no claim for himself as a Cherokee Freedman? A No sir, none as I ever known of.
Q He was working for wages up there about the coal bank I suppose A Yes sir.
Q And after working there four or five years he then moved up on Lee's Creek and went to farming? A Yes sir, he was living over here when he was working in the bank; he had moved before he went to work over there.
Q What was his wife doing all that time when he was workinf at the coal bank? A She was working in the field there with me and my folks; they lived about three or four hundred yards from me.
Q You said just now she had come from over there up to Lee's Creek? A She did after they were married.
Q You said she came up there four or five years after they were married, and now you say she had come [redacted] before that and lived with you: which one of these can I rely on? A I said about five years he lived over here and went back to work the other side of Ft. Smith about five years after he was married.
Q He went back there about five years after he was married to work? A Yes sir.
Q Well then how long did he live over there after that? A After he had moved over here?
Q Yes? A I don't know sir how long he worked; I couldn't tell exactly.
Q You now tell me that after he was married he came over here and worked four or five years and then went back to Arkansas and worked on a coal bank? A Yes sir.
Q That's what you tell me now is it? A Yes sir.
Q Well then how long did he work on a coal bank? A I couldn't tell you exactly how long he worked.
Q You told me awhile ago he worked four or five years on a coal bank? A No sir, I don't think I did; if I did I made a mistake.
Q How much was it you said, more or less? A It was less than that.
Q Whose coal bank was it? A It was called Jenny Lynn, over there about Huntington.
Q The term of Jenny Lynn? A Yes sir.
Q How long did he work over there about that coal bank off and on? A As well as I recollect it was about a year.
Q Not four or five years? A No sir.
Q Did he take his family along with him? A No sir; his family was over here living right by us.

Examined by Cherokee Representative, W.W.Hastings:

Robert Barnes.7

Q Who was living on the Cale Starr place at the time you were, immediately after you come back with your wife from the Choctaw Nation? A Ellis Harlin.
Q Did Ellis Harlin have some children living there? A He had two daughters,
Q What was their names? A Ruth and Emma.
Q They were living on the place at that time? A Yes sir.
Q Did he have any boys? A Yes sir, had one named Oce.
Q What was the other one's name? A I forget the other's name; he didn't come around there none, the other one didn't.
Q They were living there at that time? A Yes sir.
Q They were single and unmarried and living there on the place at the time with their father? A Yes sir.
Q All of these children that you have mentioned? A Yes sir, all but Oce; I don't know whether he was married or not; he just come in and out; I don't know what he was; the girls though were single.

Com'r Breckinridge: The applicant states that he has lived in the Cherokee Nation all his life; he is now thirty-three years of age, but he is not identified on the roll of 1880 nor upon the roll of 1896 nor upon the Kerns-Clifton roll; his mother is said to have died some ten years ago, and she is not identified on the roll of 1880; the testimony relating to his mother tending to establish that she came to the Cherokee Nation within the period required by the treaty of 1866, is of an indefinite character; a sister of the applicant's mother is on Cherokee Freedman doubtful card #42, and the testimony of the husband of that sister, Colly Albert, is conflicting in its character; while this application is not established in any satisfactory manner, yet at present it will be placed upon a doubtful card for the further consideration of the evidence, and the final decision of the Commission will be made known to the applicant at his post-office address.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this April 27, 1901.

Commissioner.

File with Cherokee Freedman, D-42, Martha Albert.

Department of the Interior.
Commission to the Five Civilized Tribes,
Fort Gibson, I. T., September 4, 1901.

In the matter of the application of Martha Albert et al for enrollment as Cherokee Freedmen.

Testimony on behalf of Cherokee Nation.

Appearances:

A. S. McReA, attorney for applicants,
W. W. Hastings, of counsel for Cherokee Nation.

WATT WHITMIRE, being duly sworn by Commissioner Needles, testified as follows:

Mr Hastings: What is your name? A Watt Whitmire.
Q What is your postoffice? A Westville.
Q How old are you? A 48.
Q What is your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte Whitmire.
Q In what district did your father live before the war?
A Going Snake.
Q Was there any other Johnson Whitmire in Going Snake at that time, that was grown, an old man with a family? A No, sir, not as I know of; there was A Johnson, a son, he is younger than I am.
Q Well, he was born about the time or after the war came up, or when; about how old is he? A He is some thirty odd, some 32 or 3.
Q Did your father own slaves when the war broke out? A Yes, Sir.
Q Do you know whether or not your father or your mother owned a slave by the name of Martha when the war broke out? A No, sir, not as I know of none by that name.
Q Did your father or mother own a slave by the name of Nancy, a woman? A No, sir, not as I know of.
Q This Martha, according to her statement, would be some 14 or 15 years of age at that time? A No, sir, I don't recollect any one by that name.
Q You are Johnson Whitmire's son? A Yes sir.
Q You were living at home at the time the war broke out? A Yes, sir.

By A. S. McReA: Mr Whitmire, how many slaves did your father own?
A I don't know the exact number.
Q Were you acquainted with the names of all the slaves of your father? A Why I believe I recollect the oldest. I don't know that I recollect the smallest children's names, of all.
Q About what was approximately the number of old slaves? A Well, I will have to count them up.
Q Well, give an approximate statement? A About 12 or 14, or some where along there. I don't know just exactly.
Q Did he own a slave by the name of Nancy? A Not as I recollect of; I don't recollect any such name.
Q About how old were you at the breaking out of the war? A I was born in '52; I believe the war broke out in '62, when, I am about '61.
Q You were about 9 years old? A 9 or 10 years, somewhere along there.

Q How couldn't he have possibly owned this female girl and you not have any recollection of it? A I recollect all the names from my size up, but I don't recollect of any such name of Martha. There wasn't but two girls, and one was named Mary and one Nannie.
Q They were the only two female colored girls of the ages of 12 or 14 years old? A Well, they were younger than that; Nannie was younger than that and Mary was I reckon maybe one or two years olderthan me; I don't know exactly but I just judge from her size.
Q Well now, do I understand you to say this number of fourteen or fifteen adults, or older slaves, did they have any children? A. Oh yes, that included men and women together.
Q Included men and women together? A Yes, sir.
Q Did they have any children? A Yes, sir.
Q Do you remember the names of them all? A Well not of all, I remember the names of some of them.
Q About how many children did each family have? A Well, there was one woman by the name of Fronie had one child named Susie, and there was an old lady named Sukie had two or three, and I don't recollect the names of but one boy, his name was Joe, and this girl Nannie I spoke of was the child of old Aunt Sukie ; and there was one by the name of Rachel, I don't recollect just how many children she had, but one or two or three, somewhere along there; they were quite small when the war broke out.
Q That is all the children? A No, sir, I don't recollect just how many children there were in the while family of the darkies, but there was Rachel's children, and Aunt Sukie's children, and Fronie's child, one child, I believe is all I recollect of.
Q Well, where did your father's slaves go during the war? A Well I can't tell you exactly; my understanding is they went north.
Q That they all went north? A Yes, sir, part of the men folks left here before I left the old place, and when I left there I left part of the women folks at home, at the old home place.
Q Leave any of the children? A Yes, sir.
Q Have you any recollection what became of them? A No, sir.
Q Did you ever see any of them any more? A No, sir, never saw any of them any more at all.
Q Did you go away yourself? A Yes, sir, taken away.
Q Where did you go? A Went from there to Cane Hill, Arkansas.
Q When did you return? A After peace was made; went on from Cane Hill south.
Q Have you any acquaintance with this alleged party to this suit, Martha Albert; are you acquainted with her? A No, sir.
Q Don't know her? A Don't know her at all.
Q How long have you lived in the Cherokee Nation now since your return from Cane Hill; was that the place you went to? A Went from the Nation to Cane Hill and from Cane Hill went south in the Choctaw Nation.
Q Then when did you return from the Choctaw Nation to the Cherokee Nation? A Returned in '67.
Q To what point? A Back at the old home place in Going Snake district.
Q You have lived here continuously ever since? A Yes sir.
Q Were you extensively acquainted with the colored people in and around, or rather in Going Snake district? A Yes, sir.
Mr. Hastings: Now as I understand you, Mr. Whitmire, you stated that you remember all of the slaves that were of your age and older, but those that you don't remember were those that were younger or smaller? A Yes sir; I remember some that were younger than I was, them that I called a while ago.
Q You are positive your parents didn't own a slave by the name of

Nancy? A No, sir, none that I know of, there wasn't any Nancy on the place, and I believe I can call the names of all the women.
Q Are you positive your parents didn't own a girl older than yourself named Martha? A No, sir, wasn't any on the place named Martha.

J.W. ALBERTY, being duly sworn by Commissioner Needles, testified as follows:
Mr. Hastings : What is your name? A J. W. Alberty.
Q. M . Alberty, what is your age? A Well, I am 67 years old.
Q What is your postoffice? A My postoffice is Westville, Indian Territory.
Q What district do you live in? A I live in Going Snake district.
Q You are a Cherokee by blood? A Yes, sir.
Q Mr. Alberty, where did you live in the Cherokee Nation before the war? A In Going Snake district.
Q Near where you live now? A Yes, sir.
Q Did you know Johnson Whitmire? A Yes sir.
Q Did you know him before the war? A Yes, sir.
Q How far did you live from him? A Well, it was about ten or twelve miles, I reckon we called it.
Q Did you know his family? A Well, yes I knew his family.
Q This witness here before, named Watt Whitmire, was he a son of Johnson Whitmire? A Yes, sir.
Q I will ask you if you were acquainted with a colored man by the name of Charles Boland before the war? A Yes, sir, he was a mixed blood, free.
Q I will ask you if you knew a colored woman by the name of Nancy Whitmire, alleged to have belonged to Johnson Whitmire before the war? A Yes, sir, I knew her.
Q Now, if you know what became of Nancy Whitmire and Charles Boland I wish you would make a statement to the Commission? A The Whitmire boys sold Nancy to a man named Dillingham, and he moved right across the line from where I lived, five or six miles, and owned them there until he moved off to Texas, Charles Boland and Nancy; I knew them better after Dillingham got them than I did before.
Q Who sold them to Dillingham? A The Whitmire boys, George Whitmore and Johnson Whitmire; they were brothers and they sold them at the time they divided up the property.
Q Now about how long before the war was that they sold them, about what year? A I reckon it must have been in '47 or '8 I havn't got the dates, I wasn't expecting anything of this kind, and I didn't get the dates, but it must have been in '47 or 8.
Q What was Dillingham's citizenship? A He had none.
Q Was he a white man or Cherokee or what? A He was a white man and lived in the state.
Q What state? A Arkansas.
Q Lived across the line in the State of Arkansas? A Across the line, yes, sir, in the State of Arkansas.
Q Do you know what finally became of him out there? A Mr. Dillingham, in about '50 or '51 moved to Texas and carried the family, and Boland went with them, he was free but he followed this family off to Texas.
Q Do you know whether he had Nancy for a wife or not? A Yes, Boland had this Nancy for a wife, and claimed the family, and when Dillingham carried the family off he went with them.
Q How far did this man by the name of Dillingham live from you?
A About five or six miles.
Q Now how far did you live from the Cherokee line up there.
A Well about that time I only lived about half a mile right at it.

Q On the west side of the Cherokee and Arkansas line? A On the west side of the Cherokee line.
Q And Dillingham lived on the Arkansas side? A On the Arkansas side, just over near what is called Dutch Town or Salem.
Q He laid no claim to Cherokee citizenship? A No, sir, not a bit; he had a son that was adopted, but the old man had none.
Q And I believe you stated that along about '50 Dillingham carried these people to Texas? A He carried them to Texas.
By A.S. McRea: I understand you to say Johnson Whitmire sold Nancy? A Yes, sir.
Q Nancy Sheppard then did belong to Johnson Whitmire? A Yes, sir she did belong to Johnson Whitmire; there were two brothers of the children, George and Johnson Whitmire, and they owned an interest in them and they both sold their interests.
Q About what year was that? A Well sir, I can't positively say, but it was in or about '47 or '8; I have nothing to guide me by.
Q Do you know Martha, the child of Nancy? A No, sir, they were all small when they went off, I don't know any but a boy they called Ellis; Dillingham brought him back with him just a little while before the war came up.
Q Did Nancy have children when Johnson sold her? A Yes, sir.
Q Did he sell the children with her? A Yes, sir.
Q Nancy's whole family was sold? A The whole family went, yes sir
By A. S. McRea: Mr. Alberty where do you live? A I live in the eastern part of the Cherokee Nation here.
Q And you say Johnson Whitmire sold Nancy, the alleged mother of the applicant, Martha Albert, in 1847? A I didn't say the time he sold her, because I don't know that, he sold Nancy, Charles Boland's wife to Dillingham, and the children, but I don't know nothing about Martha at all, I didn't say the mother of her, but if she is the daughter of Nancy, why she--
Commissioner: Was sold with the balance, was she? A Yes, sir, sold with the balance; the whole family was sold.
A. S. McRea: To whom did you say they were sold? A Dillingham.
Q Where did he live? A He lived in Texas.
Q Do you know of your own knowledge that this woman, Nancy, went to Texas. A Yes.
Q How do you know that? A I saw them start.
Q Did you see them arrive? A I didn't see them arrive in Texas, but I saw them start on the road.
Q Do you know whether or not, of your own knowledge that they arrived there? A No, sir, I can't say that, but I guess from all the circumstances they did.
Q What fixes it on your mind so very definitely that they were sold in '47? A Well, just as I said before, I said I wasn't positive about that, but it was in or about that time.
Q For how much was she sold? A Well I can't exactly say now what they did bring, because they got some horses and some cattle and some money.
Q How many horses? A I can't answer that question.
Q How many cattle? A I don't know.
Q How much money? A Well, I don't know that that would amount to anything, because it was satisfactory to them.
Q You say they were sold and we want to know what was the status of the sale? A Well I don't know the amount that they got for them, I can't say.
Q Did you see any money exchanged? A No, sir, but after that they changed hands, the darkies went.
Q It is true, they could possibly have changed hands without any sale? A Well hardly them days.
Q Then in so many words, you don't know whether that was a bona fide sale or not or your own knowledge?

A Well, of my own knowledge, I would have to say it was a bona fide sale, or else he wouldn't have taken them out of the Cherokee Nation.

(Foregoing answer read by stenographer at request of attorney for applicant.)

Witness: Yes, sir.

McRea: He said you would suppose it was a bona fide sale.

Commissioner: Was that your answer?

Witness: A Yes, sir.

Commission: How long after the sale was it before Mr. Dillingham taken them to Texas? A It must have been 2 or 3 years, they lived right there close neighbors to us two or three years after they bought them.

Q With whom? A With Dillingham, in the State of Arkansas.

Q Then when the sale was made Dillingham at that time was living in Arkansas? A Yes, sir.

Q Is your first statement that he was living in Texas correct, at the time of the sale? A No, sir, I didn't make that, he was living in Arkansas and moved to Texas, I said, in about '50 or '51 and taken them with him in about '50 or'51.

McRea: I would like to examine the face of the record.

Commissioner: The record shows for himself. If the witness contradicts himself the record shows it. I think the witness did state when you asked him where Dillingham lived, that he lived in Texas, but you didn't specify the exact time when he lived, but the witness stated plainly now at the time Dillingham bought the slaves he lived in Arkansas and moved to Texas a few years after.

McRea: Did you ever see Nancy Whitmire any more? A Well, I never saw her after he moved off to Texas with her.

Q Are you acquainted with Martha Albert, the applicant in this behalf? A No, sir.

Commissioner: You don't know Marthat at all then? A No, sir; well there were several children, but I don't recollect their names; there were several children then only they were small.

Q You have never seen the averred mother of Martha, Nancy, after Dillingham took her to Texas? A No, sir.

McRea: And you don't know whether or not this woman, Martha, was one of the number of these children that accompanied the mother, Nancy, to Texas or not? A No, sir, I don't.

Commissioner. Did Nancy have children to your recollection?

A Yes, sir.

Q You don't recollect how many? A Well, no I don't, there was three or four children, there might have been more and might have been less.

Q Know whether they were boys or girls? A There was one boy.

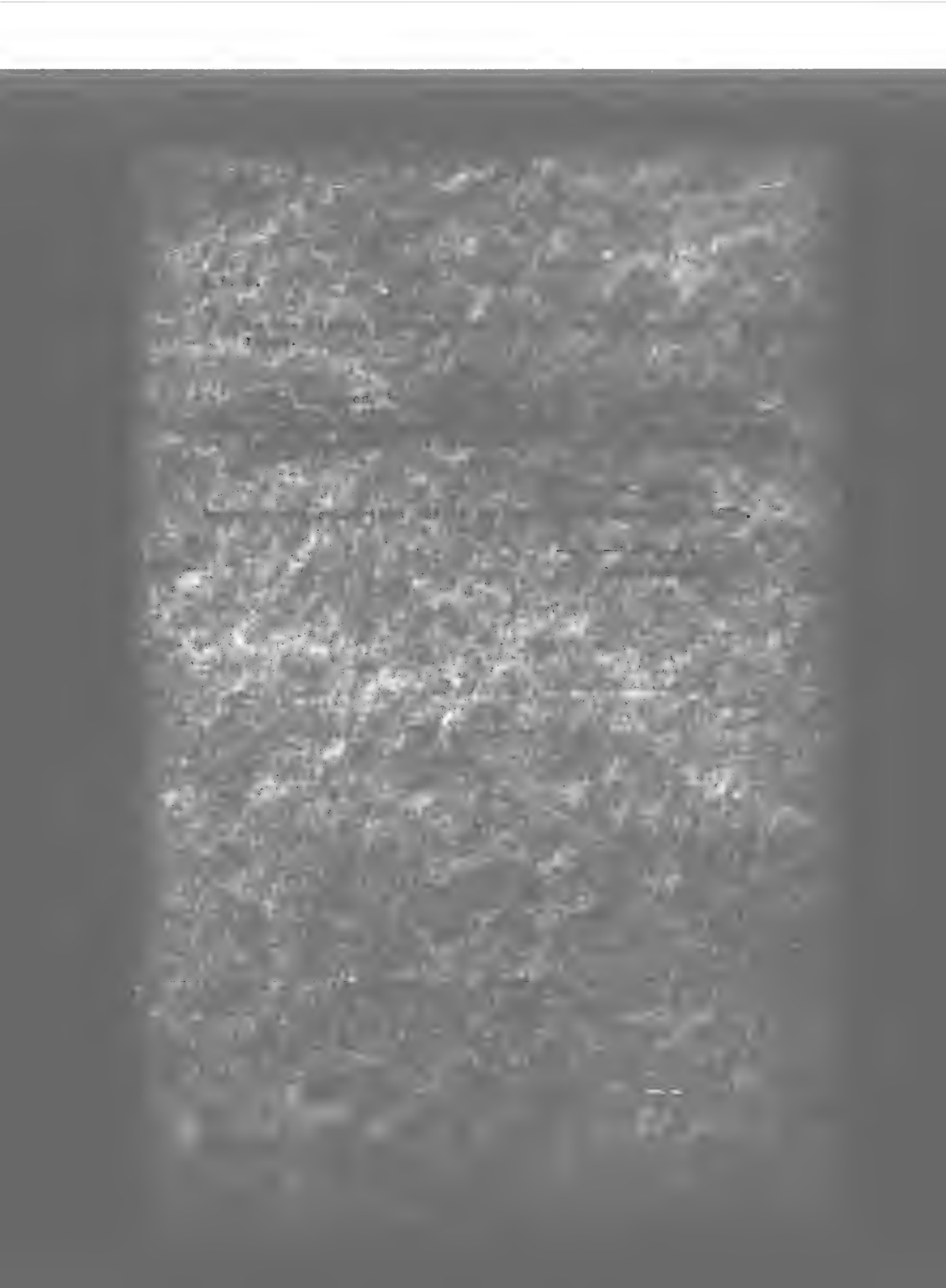
Mr. Hastings: I believe you states that these children that she had went with her? A Yes, they all went with her.

McRea: About what was the age of these children? A Well, they were small, they were not very large.

Q 3, 4, 5, 6 or 10 years, something like that? A Well, he must have been 6 or 7 or 8 years old, maybe 10, I can't state that.

Q Was that a girl or a boy? A I think the oldest one was a girl.

Commissioner: This testimony will be made part of the testimony in the cases, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152, D-146, D-182. Attorney McRea for applicant objects to testimony being filed



File with Cherokee Freedman, D-42, Martha Albert.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee freedman.

Testimony on behalf of Cherokee Nation.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

WATT WHITMIRE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Watt Whitmire.
Q What is your postoffice? A Westville.
Q How old are you? A 48.
Q What is your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte Whitmire.
Q In what district did your father live before the war?
A Going Snake.
Q Was there any other Johnson Whitmire in Going Snake at that time, that was grown, an old man with a family? A No, sir, not as I know of; there was a Johnson, a son; he is younger than I am.
Q Well, he was born about the time or after the war came up, or when; about how old is he? A He is some thirty odd, some 37 or 8.
Q Did your father own some slaves when the war broke out? A Yes, sir.
Q Do you know whether or not your father or your mother owned a slave by the name of Martha when the war broke out? A No, sir, not as I know of; none by that name.
Q Did your father or mother own a slave by the name of Nancy, a woman? A No, sir, not as I know of.
Q This Martha, according to her statement, would be some 14 or 15 years of age at that time? A No, sir, I don't recollect nary one by that name.
Q You are Johnson Whitmire's son? A Yes, sir.
Q You were living at home at the time the war broke out? A Yes, sir.
By A. S. McRea: Mr. Whitmire, how many slaves did your father own?
A I don't know the exact number.
Q Were you acquainted with the names of all the slaves of your father? A Why I believe I recollect the oldest, I don't know that I recollect the smallest children's names, of all.
Q About what was approximately the number of old slaves? A Well, I will have to count them up.
Q Well, give an approximate statement? A About 12 or 14? or somewhere along there; I don't know just exactly.
Q Did he own a slave by the name of Nancy? A Not as I recollect of; I don't recollect any such name.
Q About how old were you at the breaking out of the war? A I was born in '52; I believe the war broke out in '62, wasn't it; about '61.
Q You were about 9 years old? A I am 10 years, somewhere along there.
Q You couldn't be here possibly swear this female that and you not have any recollection of it? A I do collect all the names from my size up, but I don't recollect of any such name of Martha; there wasn't but two girls, and one was named Mary and one Jennie.
Q They were the only two female colored girls of the ages of 12 years old? A Well, they were younger than that; I mean the ages of 12 years old; they were younger than that; I mean younger than that and Mary was I reckon maybe one or two years older

than me; I don't know exactly, but I just judge from her size.

Q Well now, do I understand you to say this number of fourteen or fifteen adults, or older slaves, did they have any children? A Oh yes, that included men and women together.

Q Included men and women together? A Yes, sir.

Q Did they have any children? A Yes, sir.

Q Do you remember the names of them all? A Well not of all, I remember the names of some of them.

Q About how many children did each family have? A Well, there was one woman by the name of Fronie had one child named Susie, and there was an old lady named Sukie had two or three, and I don't recollect the names of but one boy, his name was Joe, and this girl Nannie I spoke of was the child of old Aunt Sukie; and there was one by the name of Rachel, I don't recollect just how many children she had, but one or two or three, somewhere along there; they were quite small when the war broke out.

Q That is all the children? A No, sir, I don't recollect just how many children there were in the while family of the darkies, but there was Rachel's children, and Aunt Sukie's children, and Fronie's child, one child, I believe isall I recollect of.

Q Well, where did your father's slaves go during the war? A Well I can't tell you exactly; my understanding is they went north.

Q That they all went north? A Yes, sir, part of the men folks left here before I left the old place, and when I left there I left part of the women folks at home, at the old home place.

Q Leave any of the children? A Yes, sir.

Q Have you any recollection what became of them? A No, sir.

Q Did you ever see any of them any more? A No, sir, never saw any more of them any more at all.

Q Did you go away yourself? A Yes, sir, taken away.

Q Where did you go? A Went from there to Cane Hill, Arkansas.

Q When did you return? A After peace was made; went on from Cane Hill south.

Q Have you any acquaintance with this alleged party to this suit, Martha Albert; are you acquainted with her? A No, sir.

Q Don't know her? A Don't know her at all.

Q How long have you lived in the Cherokee Nation now since your return from Cane Hill; was that the place you went to? A Went from the Nation to Cane Hill and from Cane Hill went south in the Choctaw Nation.

Q Then when did you return from the Choctaw Nation to the Cherokee Nation? A Returned in '67.

Q To what point? A Back at the old home place in Going Snake district.

Q You have lived here continuously ever since? A Yes, sir.

Q Were you extensively acquainted with the colored people in and around, or rather in Going Snake District? A Yes, sir.

Mr. Hastings: Now as I understand you, Mr. Whitmire, you stated that you remember all of the slaves that were of your age and older, but those that you don't remember were those that were younger or smaller? A Yes, sir; I remember some that were younger than I was, them that I called a grand while ago.

Q You are positive your parents didn't own a slave by the name of Nancy? A No, sir, none that I know of, there wasn't any Nancy on the place, and I believe I can call the names of all the women.

Q Are you positive your parents didn't own a girl older than yourself named Martha? A No, sir, wasn't any on the place named Martha.

J. W. ALBERTY, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A J. W. Alberty.

Q Mr. Alberty, what is your age? A Well, I am 67 years old.

Q What is your postoffice? A My postoffice is Westville, Indian Territory.

Q What district do you live in? A I live in Going Snake district.

Q You are Cherokee by blood? A Yes, sir.

Q Mr. Alberty, where did you live in the Cherokee Nation before the war? A In Going Snake district.

Q Near where you now live? A Yes, sir.

Q Did you know Johnson Whitmire? A Yes, sir.

Q Did you know him before the war? A Yes, sir.

Q How far did you live from him? A Well, it was about ten or twelve miles, I reckon we called it.

Q Did you know his family? A Well, yes I knew his family.

Q This witness here before, named Watt Whitmire, was he a son of Johnson Whitmire? A Yes, sir.

Q I will ask you if you were acquainted with a colored man by the name of Charles Boland before the war? A Yes, sir, he was a mixed blood, free.

Q I will ask you if you knew a colored woman by the name of Nancy Whitmire, alleged to have belonged to Johnson Whitmire before the war?

A Yes, sir, I knew her.

Q Now, if you know what became of Nancy Whitmire and Charles Boland and I wish you would make a statement to the Commission? A The Whitmire boys sold Nancy to a man named Dillingham, and he moved right across the line from where I lived, five or six miles, and owned them there until he moved off to Texas, Charles Boland and Nancy; I knew them better after Dillingham got them than I did before.

Q Who sold them to Dillingham? A The Whitmire boys, George Whitmore and Johnson Whitmire; they were brothers and they sold them at the time they divided up the property.

Q No about how long before the war was that they sold them, about what year? A I reckon it must have been in '47 or '8, I haven't got the dates, I wasn't expecting anything of this kind, and I didn't get the dates, but it must have been in '47 or 8.

Q What was Dillingham's citizenship? A He had none.

Q Was he a white man or Cherokee or what? A He was a white man and lived in the state.

Q What state? A Arkansas.

Q Lived across the line in the State of Arkansas? A Across the line, yes, sir, in the State of Arkansas.

Q Do you know what finally became of him out there? A Mr. Dillingham, in about '50 or '51 moved to Texas and carried the family, and Boland went with them, he was free but he followed this family off to Texas.

Q Do you know whether he had Nancy for a wife or not? A Yes, Boland had this Nancy for a wife, and claimed the family, and when Dillingham carried the family off he went with them.

Q How far did this man by the name of Dillingham live from you?

A About five or six miles.

Q Now how far did you live from the Cherokee line up there?

A Well about that time I only lived about half a mile, right at it.

Q On the west side of the Cherokee and Arkansas line? A On the west side of the Cherokee line.

Q And Dillingham lived on the Arkansas side? A On the Arkansas side, just over near what is called Dutch Town or Salem.

Q He laid no claim to Cherokee citizenship? A No, sir, not a bit; he had a son that was adopted, but the old man had none.

Q And I believe you stated that along about '50 Dillingham carried these people to Texas? A He carried them to Texas.

By A. S. McRea: I understand you to say Johnson Whitmire sold Nancy? A Yes, sir.

Q Nancy Sheppard then did belong to Johnson Whitmire? A Yes, sir; she did belong to Johnson Whitmire: there were two brothers of the children, George and Johnson Whitmire, and they owned an interest in them and they both sold their interests.

Q About what year was that? A Well sir, I can't positively say; but it was in or about '47 or '8: I have nothing to guide me by.

Q Do you know Martha, the child of Nancy? A No, sir, they were all small when they went off, I don't know any but a boy they called Ellis: Dillingham brought him back with him just a little while before the war came up.

Q Did Nancy have children when Johnson sold her? A Yes, sir.

Q Did he sell the children with her? A Yes, sir.

Q Nancy's whole family was sold? A The whole family went, yes sir.

By A. S. McRea: Mr. Alberty, where do you live? A I live in the eastern part of the Cherokee Nation here.

Q And you say Johnson Whitmire sold Nancy, the alleged mother of the applicant, Martha Albert, in 1847? A I didn't say the time he sold her, because I don't know that, he sold Nancy, Charles Boland's wife to Dillingham, and the children, but I don't know nothing about Martha at all, I didn't say the mother of her, but if she is the daughter of Nancy, why she - -

Commissioner: Was sold with the balance, was she? A Yes, sir, sold with the balance; the whole family was sold.

A. S. McRea: To whom did you say they were sold? A Dillingham.

Q Where did he live? A He lived in Texas.

Q Do you know of your own knowledge that this woman, Nancy, went to Texas? A Yes.

Q How do you know that? A I saw them start.

Q Did you see them arrive? A I didn't see them arrive in Texas, but I saw them start on the road.

Q Do you know whether or not, of your own knowledge that they arrived there? A No, sir, I can't say that, but I guess from all the circumstances they did.

Q What fixes it on your mind so very definitely that they were sold in '47? A Well, just as I said before, I said I wasn't positive about that, but it was in or about that time.

Q For how much was she sold? A Well I can't exactly say now what they did bring, because they got some horses and some cattle and some money.

Q How many horses? A I can't answer that question.

Q How many cattle? A I don't know.

Q How much money? A Well, I don't know that that would amount to anything, because it was satisfactory to them.

Q You say they were sold and we want to know what was the status of the sale? A Well I don't know the amount that they got for them, I can't say.

Q Did you see any money exchanged? A No, sir, but after that they changed hands, the darkies went.

Q It is true, they could possibly have changed hands without any sale? A Well hardly them days.

Q Then in so many words, you don't know whether that was a bona fide sale or not of your own knowledge? A Well, of my own knowledge, I would have to say it was a bona fide sale, or else he wouldn't have taken them out of the Cherokee Nation.

(Foregoing answer read by stenographer at request of attorney for applicant.)

Witness: Yes, sir.

McRea: He said you would suppose it was a bona fide sale.

Commissioner: Was that your answer?

Witness: A Yes, sir.

Commission: How long after the sale was it before Mr. Dillingham taken them to Texas? A It must have been 2 or 3 years, they lived right there close neighbors to us two or three years after they

bought them.

Q With whom? A With Dillingham, in the State of Arkansas.

Q Then when the sale was made Dillingham at that xxx time was living in Arkansas? A Yes, sir.

Q Is your first statement that he was living in Texas correct, at the time of the sale? A No, sir, I didn't make that, he was living in Arkansas and moved to Texas, I said, in about '50 or '51 and taken them with him in about '50 or '51.

McRea: I would like to examine the face of the record.

Commissioner: The record shows for himself. If the witness contradicts himself the record shows it. I think the witness did state when you asked him where Dillingham lived, that he lived in Texas, but you didn't specify the exact time when he lived, but the witness stated plainly now at the time Dillingham bought the slaves he lived in Arkansas and moved to Texas a few years after.

McRea: Did you ever see Nancy Whitmire any more? A Well, I never saw her after he moved off to Texas with her.

Q Are you acquainted with Martha Albert, the applicant in this behalf? A No, sir.

Commissioner: You don't know Martha at all then? A No, sir; well there were several children, but I don't recollect their names; there were several children then only they were small.

Q You have never seen the averred mother of Martha, Nancy, after Dillingahm took her to Texas? A No, sir.

McRea: And you don't know whether or not this woman, Martha, was one of the number of these children that accompanied the mother, Nancy, to Texas or not? A No, sir, I don't.

Commissioner: Did Nancy have children to your recollection?

A Yes, sir.

Q You don't recollect how many? A Well, no I don't, there was three or four, four children, there might have been more and might have been less.

Q Know whether they were boys or girls? A There was one boy.

Mr. Hastings: I believe you states that these children that she had went with her? A Yes, they all went with her.

McRea: About what was the age of these children? A Well, they were small, they were not very large.

Q 3, 4, 5, 6 xxdxi or 10 years, something like that? A Well, he must have been 6 or 7 or 8 years old, maybe 10, I can't state that.

Q Was that a girl or a boy? A I think the oldest one was a girl.

Commissioner: This testimony will be made part of the testimony in the cases, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152, D-146, D-182. Attorney McRea for applicant objects to testimony being filed in the case of Robert Barnes et al., and the objection is overruled.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 5th of September, 1901.

W M D Tracy

Commissioner.

File with Cherokee Freedman D- 48, Martha Albert.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 11, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Supplementary evidence introduced on behalf of applicants.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

The Commission: Now Mr. McRea, state briefly what you desire to prove by this witness.

A. S. McRea: Applicant desires to offer testimony in behalf of herself et al., by Sam Barnes, showing that mother of applicants did return to the Cherokee Nation within the time of the treaty stipulations, and that so far as the sale of she and her mother to one Billingham, it is untrue.

The Commission: When you speak of the applicant, I suppose you mean Martha Albert?

McRea: Yes, Martha Albert and others.

Mr. Hastings: The Cherokee Nation objects to the applicant being allowed to introduce any testimony in this case on the question of the return of any of the applicants, for the reason that applicants introduced their testimony on both ownership and return, and the Cherokee Nation introduced testimony on both, and the only testimony which can legally be introduced by the applicant now as testimony in rebuttal of new matter brought out by the Cherokee Nation in its testimony.

The Commission: The objection of the Cherokee Nation will be noted.

S. B. BARNES, appearing before the Commission and being duly sworn and examined, testified as follows:

A. S. McRea: Give us your name, Mr. Barnes? A S. B. Barnes.
Q Your age? A About 57, going on 58.
Q Postoffice address? A Bengo.
Q Mr. Barnes, are you acquainted with the applicant, Martha Albert? A Yes, sir.
Q How long have you known her? A I have known her going on 57 years.
Q Do you know whether or not she was a slave in the Cherokee Nation before the war of the rebellion?

Mr. Hastings: I object to that, both because the very testimony itself shows that he didn't know that; said he hadn't known her but 57 years.

Commission: Ask him the question.

Q Where was she when you first knew her? A She was down here right close to Cherokee.
Q Where is that? A That is down right on the line, at the Shawnee Mac Junction.
Q Was that in the Cherokee Nation? A Yes, sir.
Q Did you know her mother? A Yes, sir.
Q What was her mother's name? A Lucy.
Q How long had you known the mother? A I was acquainted with her in 1865.
Q Where was the place you first met her? A I met her down [illegible]
Q [illegible] Cherokee Nation? A Yes, sir.
Q [illegible] know whether or not that [illegible]

or not?

Mr. Hastings: He says he never met them till '64 and '65; you ought to know that he can't testify to that.

McRea: He might have heard; we have been taking hearsay testimony.

Commission: Answer the question.

A I don't know.

Q Did you ever hear of the mother of your wife, Sarah Barnes, having been sold to a man by the name of Dillingham?

Mr. Hastings: Objected to by the Cherokee Nation on the ground of hearsay.

Commission: Ask him if he knows.

Q Do you know? A No, sir, I don't know it.

Q Did your wife ever tell you they were sold.

McRea: What his wife told him is admissable.

Mr. Hastings: Objected to by the Cherokee Nation on the ground that it is clearly inadmissable, it being hearsay testimony, and a declaration in interest of the party.

Commission: Let him answer the question.

Q Did your wife ever tell you whether or not she and her mother were sold to Dillingham of Arkansas? A No sir, she never did.

Q I will ask you if you and your wife ever had any conversation pertaining to her citizenship?

Mr. Hastings: Objected to by the Cherokee Nation for the reason that it is clearly hearsay and inadmissable.

McRea: That is not hearsay testimony.

Commission: I will let him answer the question.

Mr. Davenport, Cherokee attorney: I will object on the ground that he can't testify for or against his wife, under the rules of law. I think I recollect that the Commission has served notice that it would follow the ordinary rules of evidence.

McRea: The Commission served notice that it would not confine itself to the different rulings and technicalities of law in trying testimony in this matter.

Commission: Go on with the examination, Mr. McRea.

(Question read to witness by stenographer.)

A Why of course, she met the John Chambers Court at Tahlequah.

Q Where did you marry your wife? A Marry her; we were engaged here in the Cherokee Nation but we were married at Fort Smith.

Q She was living in the Cherokee Nation when you courted her?

A Yes, sir.

Q Now when did you marry her? A I married her in November, '66.

Mr. Hastings: Where did you live before the war? A I lived in Texas.

Q What county? A Fannin County.

Q What was your owner's name? A Higginbotham.

Q What was his first name? A Thomas Higginbotham.

Q What was the nearest town to you? A Bonham.

Q Did you know Jerry Starr down there? A No, sir.

Q Did you see your wife down there? A No, sir.

Q You didn't? A No, sir.

Q Did you see Nancy Whitmire, or Nancy Boland, down there? A No, sir

Q See Martha Albert? A No, sir.

Q How old are you? A I have turned 60 years old.

Q What is your father's name? A My father, Bob Barnes.

Q When did you leave Texas? A I left Texas directly after the war ended.

Q Well, did you make a crop down there the year the war ended?

A I wasn't big enough, I didn't make no crop.

Q Who were you living with? A I was living with my old mistress.

Q She wasn't a Cherokee? A No, sir.

Q Well, did you make a crop with your old mistress, or for her?

A Yes, sir.

McKee: I object to all that; it is irrelevant to the question at issue.

Commission: Answer the question.

Q You made a crop for her you said? A Yes, sir.
Q The year the war ended? A Yes, sir.
Q Now then you stayed there then that year? A I left there just as the war was up.
Q I thought you said you made a crop there? A I did.
Q Then you laid that crop by, did you? A The war came to an end in the spring of '65 if I understand anything.
Q Well, how did you come to leave Texas and who did you go with?
A I come by myself.
Q Just alone? A Yes, sir.
Q Come afoot? A No, sir.
Q How did you come? A I had a horse.
Q Well, where did you come to? A I come to Fort Smith.
Q You had never been to Fort Smith before? A No, sir.
Q You had never heard of Fort Smith in your life before? A Oh yes sir, I hadn't been dead I don't reckon, I was a man.
Q How far below Fort Smith did you live when you lived in Texas?
A From Fort Smith?
Q Yes? A You mean just out on the river?
Q In Texas? A It is about 200 miles.

McKee: I object to that, the question is misleading in its nature, and I object to it.

Commission: He has already answered the question.

Q You came direct to Fort Smith? A Yes, sir.
Q Who did you work for there? A I worked for Bill Belt, five miles out south of town.
Q How long did you work for him? A I worked there a couple of weeks, or about a week, or couple of weeks.
Q Then where did you go? A I crossed over here in the Cherokee Nation.
Q What induced you to leave down there and leave your folks and go to Fort Smith at that time? A Just because I had a option to go to Fort Smith.
Q Then what induced you to leave Fort Smith after being there only two weeks and go over on the Nation side? A Just because I wanted to go.
Q You didn't know anybody over there, did you? A No sir.
Q You had never seen a soul? A Of course I had seen people.
Q You had never seen one of them over there at Fort Smith?
A Not from across the Cherokee Nation side, across the river; why I saw people down in Fort South out of the Cherokee Nation.
Q Who did you meet that lived on this side of the river, at Fort Smith? A I met Tom Stoneroad and Mrs. Franklin, I don't know how many people I didn't meet.
Q Whose place did you go to on this side of the river first? A I was at Mr. Stoneroad's place the first place I was at, right on the line.
Q How long did you stay there? A I didn't stay there but an hour or two.
Q Then where did you go? A I went back to town.
Q How long did you work there in town? A I don't know exactly how long.
Q A year? A I don't know exactly how long I worked in town.
Q 30 years? A I might not have worked there more than two hours, I don't know.
Q Don't know whether it was an hour or 30 years? A Yes, sir, I do know how long.

McKee: He has answered that he don't know.

Commission: Let him answer the question.

Q About how long? A I worked there [illegible] three different times.

sometimes I would be in town a week and sometimes not but a day or two and sometimes two or three days.

Q Where there you making headquarters, or home? A I made headquarters sometimes out at Bill Gold's and after that I worked for Tom Ironcrod some right on the line of the Cherokee Nation.

Q How long did you say a while ago you had been married? A I said I married in November, '66.

Q How many years did you say that was? A I didn't say nothing about the years.

Q Who married you? A I was married by the clerk.

Q What was his name? A I don't know his name.

Q Clerk of what court? A Clerk of the Court there, at Fort Smith.

Q On the Arkansas side? A Yes, sir.

Q You got a license over there, and he married you? A I think I got license.

Q Now what is your full name? A Sam Barnes is my full name.

Q What is your wife's name? A Her name was Jennie.

Q Jennie what? A Jennie Boland.

Q She is a sister to Martha Albert? A Yes, sir.

Q Younger than Martha? A Yes, sir.

Q Have you ever been married before? A Yes, sir, had been married twice before.

Q Where had you been married? A In Texas.

Q What was your first wife's name? A Anna.

Q She dead? A Yes, sir.

Q What was your second wife's name? A Name was Mandy.

Q What year was it they had that investigation, that Chamberlain Court you speak of? A That was in '78.

Q Was your wife admitted or rejected? A Must have been rejected by us having to be here.

Q Did you make a statement up there before that Court? A Yes sir.

Q You never saw your wife before the war? A No sir.

McKea: Did you see the mother, Nancy Boland, of your wife and Martha Albert, here in 1868? A I seen her here, yes sir.

Q In the Cherokee Nation? A Yes, sir.

Q Is she living now? A Who is that?

Q The mother, Nancy Boland? A Oh no, she died in '68.

Q Where was she buried? A Buried on this side the river there somewhere.

Q In the Cherokee Nation? A Yes, sir.

Q Did you say the father, Charles Boland I believe was his name? A Yes, sir.

Q Is he here in the Cherokee Nation? A Yes, sir.

Q Is he alive now? A No, sir, he is dead.

Q When did he die? A He died in '72.

Q Where was he buried? A He is buried on Lees Creek.

Q In the Cherokee Nation? A Yes, sir.

Mr. Hastings: On whose place is Nancy Boland, the mother of Martha Albert and wife of your wife, buried; who owns that place now?

A She was buried at what was called the Jack Campbell graveyard, my wife.

Q This Nancy Boland, where is she buried? A She is buried I think at Mrs. Franklin's graveyard.

Q Is you sure of it? A That is where I was told she was buried.

Q What time did she die? A She died in '68.

Q Spring, summer or fall; before you married or after? A Two before I married.

Q Did you ever see her? A Seen her many a time.

Q In Texas? A No sir, never seen her in Texas.

(Adjourned)

Mr. Hastings: Notice is hereby served on the attorney

- 5 -

In the case of Martha Ivert and the referred cases, that the Cherokee Nation will be ready to introduce testimony in them on Friday, the 13th inst., between the hours of eight in the morning and five in the afternoon.

Further, that applicants will on said date introduce additional testimony in each case at bar.

Considering that testimony will be filed in the following Cherokee Freedmen cases: D-48, D-146, D-402, D-97, D-100, D-401, D-102, D-403, D-104, D-105, D-414, D-150, D-151, D-152.

**********

Bruce G. Jones, being duly sworn, says that as stenographer to the commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce G. Jones

Sworn to and subscribed before me this the 13th of September, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
SEP 23 1904

ACTING CHAIRMAN

Dept. C.T.,No.462.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Room Eleven, U.S. Attorneys, June 29, 1903.

APPLICATION for Order in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen, introduced on the part of the Cherokee Nation.

APPEARANCES:
T. M. Hastings, Attorney for Cherokee Nation;
A. S. McKay, Attorney for applicants.

T. M. HUGHES, being duly sworn, testified as follows on
Part of the Cherokee Nation, by Mr. Hastings:

Q What is your name? A T. M. Hughes.
Q Post office? A Bunch.
Q What is your age? A 65.
Q Are you a citizen of the Cherokee Nation? A Well my wife and children are. I was married according to the Cherokee laws.
Q When were you married? A I was married in '69, July, '69.
Q Where did you live that year after you were married? A I lived in the Indian Territory on Joe Purdue's place on Webber creek, in a mile and a half or two mile Beyond Big Lees creek.
Q That is in Sequoyah District? A Yes, sir.
Q And about how far from Fort Smith, Arkansas? A Well, according to the line straight through, about eight miles.
Q Do you know Billy Albert, a colored man? A Yes, sir, I was acquainted with him there.
Q Were you acquainted with his wife, Martha Albert? A Yes, sir.
Q Did you know Martha Albert's father? A Yes, sir, that he what they claimed to be her father.
Q Well, what was his name? A His name was Boldan, I could not tell you what his given name was. He claimed his name was Boldan.
Q Well, he was recognized there as the father of Martha Albert?
A Yes, sir.
Q Did you know Martha Albert's sister, Jennie Barnes?
A Yes sir, I was well acquaint wo with them, lived in a half mile of them about four years.
Q Did these children do any work for you in those early days,
[illegible] A Well, in the year of '70 when I was living there on the place they were living a quarter or half a mile below me, I rented a place from Joe Purdue and they were living joining their place and I hired them to chop cotton for me and also to pull cotton and work; and do such other work as [illegible] and fixing fences, and I worked them with them two or three years; they moved [illegible]
A Did you ever have any talk or [illegible] members of this family make any statement as to where they were from and their whereabouts prior to that time? A [illegible] and his daughter, Celia Albert's wife. I never have heard Billy speak [illegible] something concerning it as I remember it, quite some.
Q Well, from [illegible] Boldan [illegible]
[illegible] to [illegible] Boldan name.
[illegible] upon the [illegible] and answer the question.
A I heard him saying he was [illegible] he claimed himself to be [illegible]
[illegible]

and that he still lived there when the war closed and moved back, but I never was acquainted with him until '69 or '70.
Q Well, did he say when they went to Texas? A No, sir, I don't remember.
Q Tell, as to the war, or before the war? A It must have been before the war.
Q Did he say that his wife and children were sold? A I think he did, I won't be positive about that, but I think he did. I remember one thing he told me, he was mighty lonesome and working for me there picking cotton and chopping cotton and thinking about his ups and downs down there in Texas, and what makes me think that you know, I asked him you came from Lowe here in Texas and he spoke about his wife and children being sold out, and if I mistake not, he told me before the war they were sold out, I won't be positive about that, but it seems to me that he did, and then at the close of the war, or after the war a while, he came back, but I don't remember anything about the time, date, I never was acquaint ed with him until '69, we made a crop there that year and how come me to get acquainted with him is what I say, I had rented that place of Joe Purdue's on the creek and we made a crop there that year and I made a crop there in '70.
Q Well, did you ever hear Martha Albert say anything about her whereabouts, where she came from? Well she claimed, if I understand it, she claimed that she come from Texas.
Q Do you remember whether you ever heard Jennie Barnes say anything about where she come from? A I never heard Jennie Barnes say anything about it, she was not at our house, but these others they worked for me a great deal.
Q Do you remember whether Boldan made any statement as to who his wife formerly belonged to up here in this country before the war? A I just don't remember.
Mr. McRea: I object to that.
Commission: Your objection will be noted.
A It seems to me that she was a whitmire, I won't be positive about that now.
MR. McREA: Mr. Hughes, you say your first acquaintance with Martha Albert and her family was in '69 or '70? A First acquaintance was '69, and in the fall of '69.
Q You knew nothing of them before that? A No, sir, I did not know them before '69, I could not tell you just what time of the year, but it must to have been, the best knowledge I have about it now, was in '69, and what makes me think so I was married in '69, in July.
Q When was the last time you saw Martha Albert? A I suppose it must have been two or three years ago the last time I remember seeing her, two or three years ago.
Q Did you ever give testimony in this matter before?
A I never have, never was called on.
Commission: This deposition will be made a part of the record in the following cases, D.#12, D.#16, D.#188, D.#99, D.#102, D.#103, D.#105, D.#106, D.#116, D.#100, D.#131, D.#152.

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I, O. Rosson, being first duly sworn, stated that he stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.
Subscribed and sworn before me this September 18th, 1902.

Commissioner.

Cherokee Freedman-R-424.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, April 13, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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The applicants are represented by Neal & London.

The Cherokee Nation represented by Bell, Hastings & Davenport.

COMMISSION.

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The case of Martha Albert et al. is reset for hearing for April 27, 1905, instead of April 20, 1905. It is agreed, however, that the attorneys for the applicants shall notify the applicants of the change in the date.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she rep orted the proceedings had in the above entitled cause on the 13th. day of April, 1905, and that the above is a full and complete record of said proceedings had in said cause on said date.

Eula Jeanes Branson.

Subscribed and sworn to before me this the 14th. day of April, 1905

Myron White,
Notary Public.

Cherokee Freedman-R-418 to 431
both inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, April 27, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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It appears from the records of the Commission that on the _____ day of _____, ____, the Commission rendered a decision in the above case, denying all the applicants therein, which decision of the Commission was approved by the Secretary of the Interior on June 21, 1904. It further appears that on March 25, 1905 this application was remanded by the Secretary of the Interior for further hearing.

Now on this, the 27th. day of April, 1905, the applicants appeared in person and by their attorneys, Neal & London. The Cherokee Nation represented by Bell, Hastings & Davenport.

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Witness for applicants.

A. J. Alberty, being duly sworn, testified as follows:

MR. NEAL:

Q. What is your name? A. A. J. Alberty.
Q. Where do you live? A. Near Stilwell.
Q. How long have you lived in the Cherokee Nation? A. I was born there.
Q. How old are you? A. About 60 years old.
Q. You are a Cherokee by blood? A. Yes sir.
Q. Were you acquainted with Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him before the war? A. I guess a couple of miles.
Q. Were you acquainted with his slaves? A. Yes sir.
Q. Q. Do you remember anything about his selling some slaves into Arkansas some time before the war? A. Yes sir.
Q. To whom did he sell these slaves? A. A man by the name of Dillingham.
Q. Q. Do you know whether there was a slave named Nancy sold to that man? A. I think so.
Q. Do you know this applicant? A. Yes sir.
Q. Did you know her before the war? A. Yes sir.

Q. To whom did she belong previous to the Rebellion? A. Johnson Whitmire.
Q. Was he a Cherokee Indian? A. Yes sir.
Q. Was she sold by Whitmire previous to the Rebellion? A. Yes sir, I think she was.
Q. Do you mean this applicant? A. No sir.
Q. Did he have two slaves by the name of Martha? A. Yes sir, one was called big Martha and the other little Martha.
Q. Which one was sold? A. Big Marthe was sold.
Q. Was this one little Martha? A. Yes sir.
Q. Was she sold? A. No sir, the other one was sold to Dillingham.
Q. Do you know who took her out of the Cherokee Nation when the war broke out? A. This one?
Q. Yes? A. I think it was Cornelius Wright.
Q. Was he the boss who took the Whitmire niggers out? A. Yes sir.
Q. Did you, at any time during the war or at the close of the war, see this applicant anywhere, and if so, where? A. After the close of the war I was down there in the Choctaw Nation on Red River, and I learned from the Choctaws that there were a lot of refugees there. I looked out for them, and found some of the Whitmire slaves.
Q. Was that in the Choctaw Nation? A. Yes sir.
Q. When was it? A. I think, to the best of my knowledge, that it was in the fall of '65.
Q. Do you know of your own knowledge when she returned to the Cherokee Nation? A. No sir, I don't.
Q. What was this woman's mother's name? A. She went by the name of Nancy.
Q. What was the name of the other Martha Whitmire's mother? A. I think her name was Dicy.
Q. Her name was Dicy Whitmire before she was sold by Whitmire? A. Yes sir.
Q. Was her name Dicy Whitmire or Dicy Shepherd? A. They always went by the name of their master.

MR. HASTINGS:

Q. When is your birthday? A. I think it was about '43, but I ain't right sure about it.
Q. You have never had a birthday since? A. No sir.
Q. You didn't have one last year? A. Yes, my birthday comes around, I guess.
Q. When was it? A. In August of '43, I think it was.
Q. But you are about 60 years old? A. Yes sir.
Q. Do you remember about the year that Dicy, the mother of Martha, was sold to Dillingham? A. It was two or three years before the war.
Q. Who else was sold at the time Dicy was sold to Dillingham? A. There were two or three children.
Q. What were their names? A. One of them was called Martha.
Q. Where did you live at the time? A. Right up above Whitmire's up in Going Snake District.
Q. Watt Whitmire lived there with his father didn't he? A. If he did he was very young.
Q. You say it was only three or four years before the war? A. Well, I don't know his age.
Q. Who did you get a letter from about a week ago to hunt up testimony in this case? A. I didn't get one from anybody.

Q. Did you ever get one from anybody with reference to hunting up testimony in this case? A. I saw Mr. Rogers.
Q. What Mr. Rogers? A. That man over there behind Mr. Neal.
Q. What interest did he have in the case? A. I couldn't tell you. He just asked me to go over there and see if I could find anybody that knew these people.
Q. Who did you go to to ask? A. Mrs. Susie Walkingstick.
Q. What interest did you have in going around over the neighborhood asking people if they knew about the people in this case? A. They had asked me to do it as a favor.
Q. Did you have any interest in the case? A. No sir.
Q. How many slaves did Johnson Whitmire have when the war came up? A. I don't know --- several.
Q. Let's have the names of some of them? A. One was called Dicy, one Nancy, Emma, Rachel. I believe that is all I know the names of. There were several more, but I don't remember their names.
Q. How far did Jack Alberty live from Johnson Whitmire? A. About 8 miles.
Q. How far did Jeff Tik-nee-sky live from Johnson Whitmire? A. About three or four miles.
Q. Do you swear that Johnson Whitmire owned this slave and her mother when the war came up, A. Of course he owned them.
Q. You will swear that? A. Of course I will.
Q. And he owned her mother at that time? A.A. Yes sir.
Q. Was she very old? A. Not very.
Q. Did she have any more children? A. I don't know. I wasn't that well acquainted with her. I was over there a good deal, but I didn't know about her business.
Q. Don't you know whether she had any other children besides this Martha? A. I don't know.
Q. Didn't she have one older than Martha? A. I don't know.
Q. And didn't she have two younger than Martha? A. I don't know
Q. But you knew Nancy and Martha? A. Yes sir, but I met them out on Red River after peace was made, and that is how I knewed so much about them.
Q. You didn't know that she had a brother or any sisters? A. She had some brothers I guess.
Q. What were their names? A. One went by the name of Nelson, one was Aaron, and one was Lewis.
Q. Who did they belong to? A. I think they were kinder in partnership between Johnson Whitmire and George Whitmire.
Q. Did you know the father of Johnson and George Whitmire? A. No sir.
Q. He died long before the war, didn't he? A. I guess so. I never knew him at all.
Q. When did Dillingham get Dicy? A. I don't know about that.
Q. Who took this applicant and her mother south? A. Cornelius Wright.
Q. Is that Cale Wright's father? A. Yes sir.
Q. Then Cale Wright would know about that? A. I guess he would.
Q. How do you know they went south with Cornelius Wright? A. They told me so.
Q. How old was this applicant when the war came up? A. I could not tell you. I was about 15 years old, and she wasn't as large as me.
Q. Was she five years old? A. I don't know.
Q. Was she three? A. I don't know.
Q. Was she two? A. I have no idea about her age.
Q. Do you mean to tell this Commission under oath that you knew this particular girl and yet you can't tell

Q. What is your best judgment, if you are going to tell the truth?
A. I guess she was 13 or 14 years old.
Q. You say she went south with Cornelius Wright? A. Yes sir.
Q. Did Cale go with his father? A. I don't know whether he did or not.
Q. Weren't you in the neighborhood? A. No sir, I was a soldier.
Q. Who was the reputed father of this applicant? A. I never knew him.
Q. Did you ever know of a free nigger by the name of Charley Rowland? A. No sir.
Q. He didn't live around there? A. He might have, but I didn't know him.
Q. He didn't go over with Dillingham? A. I don't know.
Q. You would have known it if he had? A. I might not have seen them when they left, but just heard of it.
Q. You know that Dicey went off with Dillingham? A. Yes sir.
Q. And she had a child by the name of Martha? A. Yes sir.
Q. And you swear that this Nancy and her child Martha were living there with Johnson Whitmire in Going Snake District when the war came up? A. Yes sir.
Q. And yet, you do not know how old she was? A. I guess she was 13 or 14 years old.
Q. How long was it immediately before the war that you saw this child at Johnson Whitmire's? A. I was around there several times, and I don't just know when was the last time.
Q. When was the last time you were at Johnson Whitmire's before the war? A. I couldn't tell you that.
Q. You must tell us what is your best judgment. You are under oath now? A. In those days I didn't keep any account of my whereabouts. I was a young man, and didn't keep no account.
Q. Were you in the country when the war came up? A. Yes sir.
Q. How long before the war came up was it that you were at Johnson Whitmire's? A. Just a short time.
Q. How long before the war was it that you saw Nancy at Johnson Whitmire's? A. I couldn't tell you.
Q. Was it ten years? A. It might have been.
Q. It might have been 15 years? A. It might have been.
Q. You are not going to be positive on that point? A. No sir.
Q. It might have been as much as four or five years before the war that you last saw Nancy and this child at Johnson Whitmire's? A. It might have been a year or six months.
Q. When you were at Jeff Tik-nee-sky's you didn't know anything about these people? A. Yes I did.
Q. Did you tell him that you knew them -- that you knew this applicant's mother? A. Yes sir.
Q. Did you tell Jeff what you have told on this stand? A. I told him that I knew of one being named Nancy, and I told him the other one, I told him of the one that Dillingham took out-- that that one was called Dicy and her daughter was called Martha

MR. NEAL:

Q. Did you go into the army when the war first broke out? A. Yes sir.
Q. Were you areound there until you went off to soldiering? A. Yes sir.
Q. Then you were in that neighborhood until the war broke out? A. Yes sir.
Q. In your cross examination you told Mr. Hastings that it might have been 10 or 15 years or six months that you lived within two miles of Johnson Whitmire and didn't go down there. Do you mean that you lived there that long and didn't go about his

place? A. Yes sir.

Q. Then you don't know whether you stayed there five years before the war or not? A. No, I couldn't tell you how long it was. I was over there now and then.

Q. Every four or five years or what? A. Maybe every two or three weeks.

Q. Were you over there every two or three weeks before the war broke out? A. Yes sir, maybe it would be a month.

Q. Do you mean to say that before the war broke out you were over there every three or four weeks or every four or five years? A. It was a short time.

Q. Were you over there every week or two or every year or two? A. Every week or two.

Q. When you said you didn't know how long it was, you meant that you didn't know how many days it was before you went to the army? A. Yes sir.

Q. Did you see Nancy within a month or six weeks before you went away? A. Yes sir, I think so. It has been a long time ago and a man can't remember all of thise things. Lots of things have slipped my memory.

MR. HASTINGS:

Q. Wasn't Watt Whitmire, being a son of Johnson Whitmire, in a little better position to know what slaves his father had than you were? A. I guess he would. He knew them better than I would for he was with them every day.

COMMISSION:

Q. When were you last at Johnson Whitmire's before the war broke out? A. I couldn't tell you exactly.

Q. What is your best judgment? A. It might have been two or three weeks or a month.

Q. Was it within a short time before the war broke out? A. Yes sir.

Q. Do you state now as a positive fact that when you were there the last time, that you saw this applicant there? A. Yes sir.

Q. The last time you were at Johnson Whitmire's before the war she was there. Do you state that as a fact, now? A. Yes sir, she was there, but she was never taken out of there.

Q. Well, she was there or else she was not? A. Yes sir, she was there, but she never was sold out.

Q. Were any of the other slaves there? A. Yes sir.

Q. How often have you seen this witness since the war? A. Just one time -- then I saw her yeaterday or the day before. I saw her out on Red River before '65.

Q. Since '65 up to a couple of days ago you haven't seen her at all A. No sir.

(Witness identifies his signature attached to an affidavit which is shown him.)

Q. Are you willing to swear now, Mr. Alberty, that this woman, whom you haven't seen for 40 years is the same woman that you saw at Johnson Whitmire's just before the war? A. Yes sir, I saw her out on Red River in '65, and she is the same one.

Q. And you haven't seen her since until a few days ago? A. No sir, I haven't.

Q. In January of this year was your attention drawn to the fact

about some Martha Albert ... about your mother, eh? A. Not that I knew of.

Q. Do you remember this paper that I showed you a while ago? A. Yes sir.

Q. Did you read that paper before you signed it? A. Yes sir.

Q. Four months ago you swore before Mr. Rogers, a Notary Public, that you had known this woman all her life time, and now you state that from the time you saw her down on Red River in '65, until a few days ago you didn't see her at all? A. I guess all I see her all the time.

Q. It is a fact that you had not seen her since '65 until a few days ago? A. Yes sir, I hadn't.

Q. Prior to that time you had signed this affidavit, hadn't you? A. Yes sir.

(Reference is made to an affidavit signed by the witness in the case of this applicant, signed on January 10, 1908 before H. L. Rogers, Notary Public, and which is a part of the petition for a rehearing, addressed to the Department of the Interior and to the Honorable Commissioner of Indian Affairs.)

MR. HALL:

I have one other witness, Martha Williams, who is the Martha that was sold by Johnson Whitmire to Dillingham. She lives at Marlton, and we sent a man down after her, and this morning I got a message stating that she is sick, and that a doctor's certificate has been procured. As soon as she is able to travel I would like to bring her up here and take her testimony. The testimony of this witness is important, because she is the Martha that belonged to Johnson Whitmire and she was sold out to Dillingham.

WITNESS EXCUSED.

Martha Albert recalled for additional cross examination.

MR. HASTINGS:

Q. What is your name? A. Martha Albert Doe.

Q. What was your father's name? A. Charley Bowhead.

Q. What was your mother's name? A. Nancy, but she was called Nannie when she was young.

Q. How old are you? A. I think I am about 60 years old, but I don't know exactly. I am not educated, and don't tell my age exactly.

Q. Were you married before the war? A. No sir, I was just a little girl.

Q. Were you married during the war? A. About the last year of the war.

Q. Where? A. On Red River.

Q. How did you go south to Red River with? A. With Cornelius [illegible]

[illegible] A. Yes sir.

Q. You can't recall the name of any one he had when the war came up? A. I can remember them, but I can't remember their names
Q. You can't remember the names of any of them that went south with you? A. No sir.
Q. Where did Cornelius Wright live when the war came up, and about when you started south? A. On the other side of Barren Fork
Q. On which side of Barren Fork was that? A. On the north side.
Q. How far from Barren Fork? A. I didn't go out there and measure it, Mr. Hastings. I was too young.
Q. What was Cornelius Wright's wife's name? A. Her name was Sarah, I think.
Q. Was she living when the war came up? A. It seems to me like she was dead.
Q. How long had she been dead when the war came up? A. You must recollect that I was a child and don't remember lots of things. You must give me a chance the same as anybody else. You folks didn't give us niggers no education so we could know and remember things like that.
Q. About how long before the war did Sarah Wright die? A. I don't know.
Q. Will you swear that she didn't go south with Cornelius Wright? A. I don't know.
Q. You are sure her name was Sarah? A. I said I thought it was. What did us niggers know about that. All we could call them was Mistress, and most always that was all we knewed about their names.
Q. What was Cornelius Wright's childrens names that went south? A. I don't know.
Q. You didn't have to call them Master and Mistress did you? A. Sometimes we did, and then is has been so long ago that I have raised a family myself since then.
Q. What was Johnson Whitmire's wife's name? A. She was named Tempie.
Q. Was she the wife that was living with him when the war came up? A. I think she was, but I wouldn't be positive.
Q. You was their slave? A. Yes sir, and he had plenty of slaves besides me.
Q. How many children did Johnson Whitmire and his wife, Tempie, have? A. I will tell you the truth, and I wouldn't swear a lie to get on this roll. I don't know their names -- none but one. I knewed Watt, and that is the only one.
Q. You know him because you heard me call his name, and because he was a witness against you in this case. How old was Watt when the war came up? A. He was a good sized boy, but I was the largest.
Q. If you were a child with them and Johnson Whitmire had some more children, why don't you remember their names? A. I just tell you about that. If you had been raised up a slave in the backwoods like us you would not know your playmates' names.
Q. The truth of the business is, you weren't there? A. Yes sir, I was right there.
Q. Did he have a brother named George Whitmire? A. Yes sir.
Q. What children did George Whitmire have? A. He didn't live right there.
Q. How far did he live from Johnson Whitmire? A. I don't know. I know he lived in the country somewhere.
Q. About how far? A. I don't know.
Q. You never were at George Whitmire's? A. I belonged to Johnson Whitmire.
Q. You never were at George Whitmire's? A. No sir.

Q. You don't know whether he had any children or not? A. I think he did.
Q. You don't know any of Johnson's children but Watt, and you did not know him until he testified against you? A. Yes sir, I knowed him before.
Q. But you never knew any of the rest of them, did you? A. I don't know.
Q. Where did Johnson Whitmire live when the war came up? A. He lived up in Going Snake District.
Q. Near what town? A. Tahlequah.
Q. About how far from Tahlequah? A. I don't know.
Q. Your best judgment? A. I didn't have no judgment about it.
Q. You weren't there, were you? A. I was born and raised right there on the old Whitmire place.
Q. How far is it from Tahlequah? A. I don't know.
Q. Was it as much as two miles? A. I never have measured it.
Q. Was it a mile and a half -- what is your best judgment? A. It might have been a mile and a half or five miles.
Q. Is five miles your best judgment? A. My best judgment is that I don't know.
Q. Is five miles your best judgment? A. I don't know how far it was.
Q. On what side of Barren Fork did he live? A. On the north side.
Q. How far did he live from the creek? A. I don't know that. He didn't live so powerful fur, though.
Q. Was it five miles? A. No, I don't think it was that fur.
Q. Right when the war come up how far did Johnson Whitmire live from Barren Fork? A. I guess his old house is sitting there right now, on the north side of Barren Fork.
Q. How far from the creek? A. I couldn't answer lessen I know.
Q. I want to know whether it was a short distance, or how far? A. If I had been a young woman I might have been able to tell you.
Q. How old were you? A. I must have been about 4 or 5 years old
Q. And yet, you were married the last year of the war? A. I was 13 or 14 years old when I married.
Q. What became of your mother? A. She died.
Q. Where did she die? A. Down in Sequoyah.
Q. Did your father go south with you? A. He didn't go with us but he come.
Q. You remember seeing him around Johnson Wright's before you went? A. Yes sir, but his home was on Pea Vine.
Q. What kind of a house did Johnson Whitmire live in? A. I think it was a big log house.
Q. Are you certain about that? A. No sir, I won't be certain.
Q. Did he live on the hill or in the valley? A. On the side of the hill.
Q. And you were four or five years old? A. I suppose I was about that old.
Q. You were born in '43 and left in '47? A. I don't know. You ask me too tight questions. If I was sold I would say so.
Q. How many slaves did Johnson Whitmire have? I mean, when the war came up? A. He had old aunt Tempie, Artie, Moss, Celia, Mary, Nancy and me.
Q. Did Celia have any children? A. No sir.
Q. Did Tempie? A. She had two.
Q. Were they older or younger than you? A. Older.
Q. Did they have any about your age? A. No sir.
Q. Did Mary Have any children? A. Yes sir.
Q. What were their names? A. One was named Bass and one was named Tom.

Q. You don't know how far from Barren Fork Johnson Whitmire lived, though? A. No sir.
Q. You didn't know any of his children but Watt? A. I did know them, but I have forgot their names.
Q. You didn't know any of Cornelius Wright's children's names? A. No sir.
Q. You do not know the names of any of George Whitmire's children? A. No sir. We didn't belong to George.

COMMISSION:

Q. You have some children, haven't you, that you applied for? A. Yes sir.
Q. Elijah and Ida are two of them? A. Yes sir.
Q. Who is the father of these children? A. Colly Albert.
Q. He was a state man wasn't he? A. Yes sir. Old man Bushyhead raised him, but he didn't belong to him.
Q. How many times have you been married? A. Just the one time.
Q. What was your husband's name? A. Colly Albert.
Q. He doesn't claim any rights as a Cherokee Freedman? A. No sir
Q. You have a child called Henry? A. Yes sir.
Q. Has he got some children? A. Yes sir.
Q. What are their names? A. Harry, Raymond, and Louie.
Q. Who is the mother of those children? A. Florence.
Q. She is a state woman? A. Yes sir.
Q She doesn't claim any rights as a Cherokee Freedman? A. No sir
Q. You have a girl called Lillie White' A. Yes sir.
Q. She has some children? A. Yes sir.
Q. Who was the father of those children? A. Henry White.
Q. He is a state man? A. Yes sir.
Q. Have you a child called Nancy Balkam? A. Yes sir.
Q. Has she any children? A. Yes sir.
Q. Their father doesn't claim any rights as a Cherokee Freedman? A. No sir.
Q. Have you a daughter named Malinda? A. Yes sir.
Q. Has she any children? A. Yes sir, six.
Q. Does the father of those children claim any rights as a Cherokee Freedman? A. No sir.
Q. Are they all living? A. Malinda is dead, but her children are all living.
Q. What relation is Jennie Barnes to you? A. She is my sister.
Q. A full sister? A. Yes sir.
Q. Did you have the same father and mother? A. Yes sir.
Q. Is Robert Barnes Jennie Barnes' son? A. Yes sir.
Q. The father of Robert was a state man? A. Yes sir.
Q. Jennie Barnes had a daughter called Lula Knalls? A. Yes sir.
Q. And she has two children? A. Yes sir.
Q. What are their names? A. Sarah French and Fred E. Knalls.
Q. Was the father of Sarah French a state man? A. Yes sir.
Q. What about the father of Fred? A. He was a state man.
Q. Who was the father of R-430? A. He was a state man, too.
Q. He is dead isn't he? A. Yes sir. A. Yes sir.
Q. John Barnes is a son of Jennie Barnes, too? A. Yes sir.
Q. His father was a state man? A. Yes sir.
Q. The mother of Gussie and John is a state woman? A. Yes sir.
Q. Sarah Brown has got a child called Maggie Williams? A. Yes sir.
Q. What is its father's name? A. Marcus Williams.
Q He is a state man? A. Yes sir.
Q Jennie Barnes had a daughter named Maggie, and Maggie had a son named George L. Bell. Who was the father of this child? A. George Smith, or Bell.
Q. Is he a state man? A. No sir.

Q. He was denied as a Cherokee Freedman? A. Yes sir.

WITNESS EXCUSED.

Witnesses for the Nation.

Watt Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Watt Whitmire.
Q. What is your post office? A. Westville.
Q. What is your age? A. 53.
Q. Are you a Cherokee by blood? A. Yes sir.
Q. What was your father's name? A. Johnson Whitmire.
Q. What was your mother's name? A. Charlotte.
Q. Was your mother living when the war came up? A. No sir.
Q. How long had she died before the war? A. I don't recollect. I was just an infant when she died. I think she died about ten years before the war.
Q. Had your father remarried when the war came up? A. Yes sir.
Q. What was his wife's name then? A. Tempie.
Q. Did you have any brothers and sisters living when the war came up? A. Yes sir. I had one full brother by the name of William, older than me, and then I had some half brothers, named George and Ellis, and a sister named Charlotte.
Q. Do you know this applicant that goes by the name of Martha Albert? A. If I ever saw her before I don't know it.
Q. Did your father own some colored people when the war came up? A. Yes sir.
Q. Did he own one called Nancy when the war came up? A. No sir.
Q. Did your father own this colored applicant, who claims that she is the daughter of Nancy, when the war came up? A. There was no Nancy on the place.
Q. Did your father own this applicant? A. No sir, she wasn't on the place.
Q. Were you living with your father when the war came up? A. Yes sir.
Q. How far were you living from Barren Fork? A. Right at two miles.
Q. On which side of the creek? A. South side.
Q. Did you ever live on the north side of Barren Fork? A. No sir.
Q. Do you know one, Andy Alberty, whose post office is Stilwell? A. Yes sir.
Q. He has just testified upon the stand that your father owned a nigger slave by the name of Nancy and this applicant, who was the child of Nancy when the war came up. Was that true? A. No sir, he never owned no woman by the name of Nancy.
Q. How far did Andy Alberty live from your father when the war came up? A. As near as I can guess it, it was 7 or 8 miles.
Q. What kind of a house did your father live in? A. A double log house.
Q. You say your own mother was dead? A. Yes sir.
Q. Was your stepmother living when the war came up? A. Yes sir
Q. What became of your father's slaves? A. When father went south we left the women folks all at home. The men had all gone north before we left home. Me and my brother, George, were the last ones to leave the place, and we left all the women folks on the place, and after we left they all went north.

Q. None that you owned went south? A. Not one/
Q. Where did you go during the war? A. Down on Red River on the Choctaw side.
Q. Did you know Cornelius Wright? A. Yes sir.
Q. Did you know his son, Cale? A. Yes sir.
Q. How far did they live from you? A. Some five or six miles.
Q. On what side of Barren Fork? A. On the southeast side from us.
Q. Did you see them down on Red River during the war? A. Yes sir.
Q. Did they have some slaves down there? A. Yes sir.
Q. Did they have a woman by the name of Nancy? A. If they did I don't know it.
Q. Did you ever see this applicant down there? A. No sir.
Q. Did you ever see her anywhere before? A. No sir, this is the first time I ever saw her.
Q. How long were you all and Cornelius Wright's people together in the Choctaw Nation? A. I don't know. We moved away and left them there. We moved there in the early fall and left early the next spring, and we left Cornelius Wright's folks living there.
Q. They were related to you? A. Yes sir.
Q. You know that Cornelius Wright didn't have any slave of your father's by the name of Nancy, down there? A. No sir.
Q. Did you ever know the alleged father of this applicant who she said went by the name of Charley Bowland? A. No sir.
Q. Was he in your neighborhood before the war? A. I never heard of him.
Q. Did you see Him down on Red River during the war? A. No sir.

MR. NEAL:

Q. You say you and your brother went off and left the women folks there? A. Yes sir.
Q. You mean the slaves? A. Yes sir.
Q. You also said that they all went north? A. Yes sir.
Q. Do you know where they went? A. I doNôt know only what they told me. After the war they told me they went to Fort Scott. One of the men told me that.
Q. You don't know, of your own personal knowledge, where they went? A. No sir, I just have their word.
Q. You say that one of the men told you? A. Yes sir, Dick and Mose both told me that the women folks were all in Fort Scott.
Q. You said the men folks all went north? A. Yes sir, they went north first -- before we left.
Q. All you know about where the women folks went is what Dick and Mose told you, and they left before you did? A. Yes sir.
Q. You say your father didn't own any slave by the name of Nancy? A. No sir.
Q. Did he own one by the name of Nannie? A. Yes sir, there was a little girl by the name of Nannie.
Q. How old do you say you are? A. 53.
Q. That would make you how old when the war broke out? A. Between 9 and 10.
Q. You were acquainted with all of your father's slaves, were you? A. Yes sir.
Q. Knew all of the children? A. Yes sir.
Q. How many children did Rachel have? A. 3 or 4 -- I don't know just exactly whether it was 3 or 4.
Q. How many children did Sookie have? A. There was Charlotte, Liza, Ibby, and Mary.
Q. There was a slave there named Fronie? A. Yes sir, but I have forgot which woman was her mother.

Q. How many children did Fronie have? A. One.
Q. Of your knowledge, you don't know where your father's slaves went? A. Not only what they told me. They told me they went north.
Q. You never have seen any of the women folks since then? A. A. Not since the war.
Q. You don't know where they are now, do you? A? Not for certa certain. I never have been right to their houses.
Q. You never have spoken to one of the negro women that belonged to your father, since the war? A. No sir.
Q. The only slaves of your father's that you have seen are Mose and Dick? A. Yes sir.
Q. How many slaves did your father have when the war broke out? A. I would have to count them up.
Q. About how many? A. I guess there were 18 or 20, children and all .
Q. You have named four children of Rachel's --- A. As well as I recollect, I said there were that many.
Q. Five of Sookie's? A. Yes sir.
Q. And one of Fronie's? A. Yes sir.
Q. How many more children were there? A. There was one by the name of Charlotte that had one or two children I think.
Q. Do you think that, being only 9 or 10 years old, you would recognize a woman 55 or 60 years old who was a girl at the out - break of the war? A. I guess not.
Q. Then you don't know anything about Martha Albert-- anything about who she is, or anything about her? A. No sir.
Q. If she belonged to your father you don't know it? A. No sir.

MR. HASTINGS:

Q. You know your father didn't have a grown woman,with children, by the name of Nancy when the war came up? A. No sir, he didn't.

COMMISSION:

Q. You have testified in this case once before? A. Yes sir.
Q. Are you the Watt Whitmire that testified at Fort Gibson in 1901? A. Yes sir.
Q. Do you know this man, Dillingham? A. No sir, I have heard of him frequently.
Q. Did he live in your neighborhood? A. I think not. I have heard my father speak of him.
Q. You do not know how near he lived to your home, do you? A. No sir, I know the place they say he lived on.
Q. You know this Andy Alberty that testified here awhile ago? A. Yes sir.
Q. Did you know him before the war? A. No sir.
Q. When was the first time you ever knew him? A. Since the war I got acquainted with him.
Q. You don't know whether he was in the habit of visiting your father's house or not? A. No sir.
Q. Your mother's name was Lottie? A. Charlotte.
Q. You belonged to the second marriage? A. No, the first.

MR. NEAL:

Q. How long before the war was it that your father married Temple? A. I don't recollect just when it was. I was a boy, up and running around, I guess two or three or four years old. It was anyway, three or four years before the war.
Q. You were about 9 or 10 when the war broke out? A. Yes sir.

MR. HASTINGS:

Q. Was there any other Johnson Whitmire living around there before the war? A. No sir.

COMMISSION:

Q. Do you know what year it was that you went to Red River? A. No sir, I don't.
Q. What is your best judgment as to what year it was? A. It would have to be a round about guwss. I guess it was the second year of the war.
Q. Do you remember distinctly about going to the Choctaw Nation? A. Yes sir.
Q. You remember the trip down there, and the people you met down there? A. Yes sir.

WITNESS EXCUSED.

Cale Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Cale Wright.
Q. Where do you live? A. Tahlequah.
Q. How old are you? A. I am 59.
Q. What was your father's name? A. Cornelius Wright.
Q. Were you living with your father when the war came up? A. Yes sir.
Q. Where? A. About 3 or 4 miles west of Dutch Mills, on the Cherokee side.
Q. What District? A. Going Snake.
Q. How far from Barren Fork? A. About two and a half miles, I guess.
Q. Where did your father go during the war? A. South.
Q. Did you go with him? A. I didn't exactly start with him, but I got with him at Fort Smith when he was on the way.
Q. Did you continue on the trip with him? A. Yes sir.
Q. Where did you go to? A. The first place we stopped at was Armstrong's Academy in the Choctaw Nation, then we moved from there down to 10 miles south of Doaksville, near Red River.
Q. Do you know this applicant, Martha Albert? A. No.
Q. She has testified that she and her mother, Nancy went south with your father during the war, and that her mother, Nancy, belonged to Johnson Whitmire, as well as herself, at the beginning of the war? Is that true? Did a Nancy Whitmire, who had one or two children, go south with your father? A. They were not with him when I came up with him.
Q. Did they have a Nancy Whitmire anywhere on that trip? A. No si
Q. Were you ever about Johnson Whitmire's place before the war? A. Yes sir, I boarded there and went to school two sessions.
Q. And you lived in his neighborhood? A. Yes sir., within five miles.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a slave by the name of Nancy who had some children when the war came up? A. No sir. I never heard of that name while I was there going to school.
Q. You lived in the same neighborhood? A. A. Yes sir.
Q. You were related to Johnson Whitmire? A. I suppose we were distantly related, but I don't know just how much.
Q. You do not know the degree of relationship? A. No sir.

Q. Did you ever see this applicant down south after the war or during the war? A. I am just looking at her. Let me talk to her some, and see.
Q. Are you satisfied, from the conversation that you have had with her, that she was with your father down south? A. No, she could not have been.
Q. Did you know this Andy Alberty? A. Yes sir.
Q. How far did he live from Johnson Whitmire before the war? A.
A. It must have been 8 miles, across the mountain.
Q. You swaer positively that your father did not have a woman by the name of Nancy, and her child, that belonged to Johnson Whitmire, down on Red River during the war? A. No sir.

Applicant to witness--- Was Arthur with you? A. No.
Q. Was Rose? A. Yes, there was a Rose -- Lucindy's daughter.
Q. Was Jinnie with you? A. Jinnie died in '61.

Q.
MR. HASTINGS:

Q. You know that no Nancy Whitmire went south with your father? A. No sir.

MR. NEAL:

Q. You said just now that you judge from your conversation with the applicant, that she couldnot have been with your father down there? A. No sir she couldn't.
Q. The reason that you say she wasnot with your father is because she doesn't seem to know enough about the people? A. That is it.
Q. Upon that you base your judgment? A. Yes sir.
Q. There were a good many slaves that went with your father down there? A. Yes sir, several.
Q. Did any of the Whitmire niggers go with your father? A. No. The Whitmires went out there themselves and we all went to ourselves, and at last we all got into the same neighborhood before we started back.
Q. You didn't go out of the Territory at all? A. No, we stopped on the north side of the river in the Choctaw Nation.
Q. You say that you boarded at Johnson Whitmire's and went to school, and you say he had no slave named Nancy-- name some of his slaves --- A. You call them off.
Q. I want you to call them off? A. He had Hannah, Myra, Fronie, Rachel, Ibby, Mary, and there might have been some young ones, but those are the older ones.
Q. Didn't he have one named Jane? A. Not that I know of.
Q. Didn't he have one named Mattie? A. No.
Q. Didn't he have one named Nannie? A. Well, I don't know, but if he did she must have been mighty small.
Q. Didn't he have one named Sookie? A. Yes, there was one named Sookie.
Q. Do you know the names of any of the men? A. Yes, there was Dick, Mose, Mike, Frank, and Mark.
Q. What was Johnson Whitmire's wife's name when the war came up? A. Her name was Tempie.
Q. Were you acquainted with his first wife? A. No, she was dead long before I could remember her.
Q. How old were you when you boarded there? A. It was along in '50. I was a good big chap.
Q. You remember the names of all of those slaves by having boarded there? A. Yes sir.
Q. How far did you live from there? A. About 8 miles, I reckon. In our country we had what we called bridle ways that were

nearer, but it was about 5 miles around.

MR. HASTINGS:

Q. Did you mean in the year '50 or between '50 and '60? A. Yes sir, that is it-- between '50 and '60.
Q. About how long before the war? A. I couldn't tell that. The war broke out in '61, and it must have been three or four years before the war.
Q. were you there frequently besides boarding there? A. Yes sir

MR. NEAL:

Q. You said when you were south on Red River that the Whitmire folks got into the same neighborhood? A. Yes sir.
Q. And some of the slaves were there? A. Yes sir.
Q. Old man Johnson Whitmire didn't carry out any slaves? A. I think George had a slave or two.
Q. You say that none of Johnson Whitmire's slaves were there? A. No, they all went north.

COMMISSION:

Q. Have you ever seen this woman before, to your knowledge? A. No sir, I don't know anything about her.
Q. How far do you live from Melvin? A. I live up to Tahlequah, and I don't know just how far it is.
Q. Do you know any of these applicants --- any of this woman's children? A. No sir.

WITNESS EXCUSED.

J. W. Alberty, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. J. W. Alberty.
Q. What is your post office? A. Westville.
Q. How old are you? A. Well sir, I will be 71 years old the 26th. day of July.
Q. This is the case of Martha Albert, in which you have given testimony before? A. Yes sir.
Q. You knew Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. Six or seven miles.
Q. You testified about the sale of some slaves to a man by the name of Dillingham? A. Yes sir.
Q. About when did he sell them to Dillingham? A. It was either in '47 or '48.
Q. Do you know this applicant here? A. No sir.
Q. She has testified that her mother was named Nancy and that her father was named Charley Bowland. Did you know the Nancy, the alleged wife of Charley Bowland? A. Yes sir.
Q. Who did she belong to? A. Old man Dillingham moved to Texas and took this family with him?
Q. To whom did she previously belong? A. To Johnson Whitmire.
Q. And Dillingham acquired her from Johnson Whitmire in the year of 1847 or 1848? A. Yes sir.
Q. Are you certain that her name was Nancy? A. Yes sir.
Q. What became of Charley Bowland? A. He went with Dillingham.
Q. Do you know whether Nancy had some children? A. She had two or three.
Q. You don't know whether this applicant was one of them or not? A. No sir.

Q. Did Johnson Whitmire have a grown slave by the name of Nancy when the war came up? A. No sir, not that I know of.
Q. You were familiar with him? A. Yes sir.
Q. Are you prepared to say that Charley Bowland was not in that country when the war came up? A. Yes sir.
Q. Do you know Andy Alberty? A. Yes sir.
Q. Is he a relative of yours? A. Yes sir.
Q. Where did he live before the war? A. He lived right close to Oak Grove school house.
Q. How far from Johnson Whitmire's? A. Between 7 and 8 miles.
Q. Then Nancy, the wife of Charley Bowland, was taken south? A. Yes sir.
Q. What was the citizenship of Dillingham? A. He wasn't no citizen at all, he was just a white man.
Q. Well, he was a United States citizen? A. Yes sir.
Q. Where did he live in '49 or'50? A. Before he went to Texas he lived in Arkansas.

MR. NEAL:

Q. You lived closer to Dillingham than you did to Johnson Whitmire didn't you? A. Yes sir.
Q. You were better acquainted with Dillingham's slaves than you were with Johnson Whitmire's? A. Yes sir.
Q. You knew more about this woman after Dillingham bought her than than you did when she belonged to Mohnson Whitmire? A. Yes sir.

WITNESS EXCUSED.

Jeff Catcher (Tik-nee-sky),being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Jeff Catcher.
Q. What is your post office? A. Stilwell.
Q. How old are you? A. I was 65 the 15th. day of last month.
Q. Are you a Cherokee citizen? A. Yes sir.
Q. You are also known as Jeff Tik-nee-sky? A. Yes sir, that is my Cherokee name.
Q. Where did you live before the war? A. In Going Snake District, on Pea Vine.
Q. Close to where you live now? A. About 300 yards west of where I live now.
Q. Did you know Johnson Whitmire beforethe war? A. Yes sir.
Q. How far did you live from him? A. It was about three quarters of a mile, I reckon, maybe a leetle over.
Q. Were you a soldier in the army? A. Yes sir.
Q. You were about grown when the war came up? A. Yes sir.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman slave by the name of Nancy, who had some children, when the war came up? A. No sir, I don't recollect one by that name.
Q. Were you frequently at his house? A. Pretty near all the time. Once a week, anyhow. I was there pretty much all the time.
Q. Do you know this applicant, who gives her name as Martha Albert? A. No sir.
Q. Did you ever see her before? A. No sir.
Q. Did you know a white man that lived across the line by the name of Dillingham before the war? A. No, I never saw him, but I

have heard him talked of a good deal.

Q. You were too small to remember him? A. Yes sir, but I have heard of him.

Q. You don't know whether he bought some slaves of Johnson Whitmire or not? A. I don't know. He didn't after I got big enough to recollect.

Q. Did Johnson Whitmire, when the war came up, have a woman by the name of Nancy? A. No sir.

Q. What army were you in? A. The Federal army.

Q. Do you know Andy Alberty? He just testified here awhile ago? A. Yes sir.

Q. How far did he live from Johnson Whitmire? A. Between 7 and 8 miles.

Q. Did you know a free colored man in that country by the name of Charley Bowland? A. I have heard of him, but I don't recollect him.

Q. He wasn't there just before the war? A. No sir.

MR. NEAL:

Q. You say that you don't remember a woman named Nancy that belonged to Johnson Whitmire? A. No sir.

Q. You don't mean to say that he didn't have one by that name, but that you just don't remember her? A. If he had one it must have been a small child, for I know all the old ones. I think I can name all the old ones.

Q. Name them? A. The old woman that I knew was Myra, Em, Sookie, Hannah, Rachel, Fronie, Mary, Charlotte, and the balance were small and I don't recollect their names.

MR. HASTINGS: Q. Was Andy Alberty over to see you lately to see about this case? A. Yes sir, last Sunday.

Q. What did he say to you? A. He asked me if I knew of Mr. Whitmire having a woman by the name of Nancy.

Q. What did he say about it? A. He didn't say that he knew anything about it. He just wanted to find somebody that knew them.

Q. Did he say that he knew one at that time by the name of Nancy? A. He didn't say whether he did or not? He just wanted to find somebody that did know her. I told him I didn't think Johnson Whitmire owned any nigger by that name.

Q. That is the same Andy Alberty that you saw out there in the hall who has just testified here? A. Yes sir.

Q. MR. NEAL

Q. As soon as Mr. Alberty told you that he wanted to get witnesses who knew this woman who did you go and tell about it? A. I told him that there was an old woman up there, Susie Walkingstick, and that if anybody would know about it she would for she was older than I was. I said, for my part, I didn't know anything about it. Afterwards, I saw him and told him that what I knew was not in his favor, but will go against him, for I was there and knew all about his doggery.

Q. You sent him around to see Susie Walkingstick, and told him that if he owned one by that name it was before you could remember? A. Yes sir.

Q. And then you chased out to see if they wanted witnesses for the Nation? A. No sir.

COMMISSION:

Q. How big a place did Johnson Whitmire have? A. About 75 acres in cultivation.
Q. About how many slaves did he have at the beginning of the war?
A. He must have had 15 or 20.
Q. Was that the only place he had in the Cherokee Nation? A. Yes sir.
Q. Did he have a plantation anywhere else? A. Nothing only a cattle ranch down about Webbers Falls. He and his brother George had a ranch together. They both owned slaves.
Q. He didn't have any female niggers down at the ranch? A. No sir.
Q. You are positive that those are the only two places he had? A. Yes sir.

WITNESS EXCUSED.

Charlotte Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charlotte Wright,
Q. What is your post office? A. Christie.
Q. How old are you? A. 58.
Q. What was your maiden name? A. Whitmire.
Q. Who was your father? A. George Whitmire.
Q. What relation was he to Johnson Whitmire? A. A brother.
Q. Where did you live before the war? A. I lived on Barren Fork. West of the Barren Fork station and east of Christie.
Q. How far from where you are living now? A. About a mile and a half.
Q. You have lived there all your life? A. Except when I was south during the war.
Q. Did you go south? A. Yes sir, we were gone four years.
Q. Where did you go? A. To Red River -- near Bonham only we were on the Choctaw side.
Q. Did you know Cornelius Wright before the war? A. Yes sir.
Q. Did you see him down on Red River? A. Yes sir.
Q. Do you know Cale Wright? A. Yes sir.
Q. You saw these people down south during the war? A. Yes sir, we got to be neighbors down there.
Q. Did Johnson Whitmire have some slaves before the war? A Yes sir.
Q. Do you know this applicant here? A. I don't recognize her.
Q. Did Johnson Whitmire have a grown woman slave by the name of Nancy when the war came up? A. I don't remember her.
Q. Was there a free colored man in the neighborhood, by the name of Charley Bowland, when the war came up? A. I never heard of it.
Q. This applicant gives her mother's name as Nancy and her father's name as Charley Bowland? A. I never knew them.
Q. Do you state that Johnson Whitmire had any slave by the name of Nancy, who had some children, when the war came up? A. If he did I don't know it.
Q. He was your uncle? A. Yes sir.
Q. Were you frequently at his house? A. Yes sir.
Q. How far did your father live from him? A. I guess it was 5 or 6 miles.
Q. You lived in the same neighborhood? A. Yes sir.
Q. And you were frequently at your uncle's place? A. Yes sir.
Q. Would you stay any length of time? A. As long as a week.
Q. You knew his family and slaves? A. Yes sir.

Q. They never had one by the name of Nancy that you know of? A. No sir.
Q. Did you see any slaves down south with Cornelius Wright, and among them one named Nancy who claimed to belong to your uncle Johnson before the war? A. No sir, none of his slaves went south that I know of. They all left him.
Q. You didn't see any down there that claimed to have belonged to him? A. No sir.
Q. You do not remember to have ever seen this applicant before? A. No sir.

MR. NEAL:

Q. You have not seen any of Johnson Whitmire's female slaves since the war, have you? A. No sir.
Q. You probably wouldn't remember a girl that was 4 or 5 years old? A. I think I would recognize her. I could be mistaken, but I think I would recognize her.
Q. How old were you when the war broke out? A. I was 14 years old when we had to leave home.
Q. You say that if Johnson Whitmire had a slave by the name of Nancy, you don't know anything about it? A. No sir.
Q. You don't know that he didn't have one by that name, but you just don't know about it? A. I never saw one by that name on the place, and I don't think he had one by that name. I don't recollect anything about it, and never heard anything about it.
Q. You don't know positively that he didn't have one by that name? A. No sir, he didn't have one by that name that I knew of. He didn't have one at home, and I don't think he had any away from home. I never heard of it if he did. But I know there was no one on the place by that name.

WITNESS EXCUSED.

Charles Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charles Whitmire.
Q. What is your post office? A. Proctor.
Q. How old are you? A. 56 I reckon.
Q. Are you younger than your sister, Mrs. Wright? A. Yes sir.
Q. She was your sister? A. Yes sir, she was always recognized as my sister.
Q. You are the son of George Whitmire? A. Yes sir.
Q. Johnson Whitmire was your uncle? A. Yes sir.
Q. Do you remember Johnson Whitmire before the war? A. Yes sir.
Q. About how old were you when the war came up? A. I couldn't tell you -- 12 or 14 I guess.
Q. Were you about Johnson Whitmire's frequently? A. Yes sir, I stayed there a right smart and went to school from his house.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman slave who had some children, by the name of Nancy, when the war came up? A. Not that I remember.
Q. Well, if he had had one that was old enough to be, and was the mother of some children would you have known it? A. Yes sir, I think I knowed all of the older ones.
Q. You didn't know one by the name of Nancy? A. No sir.
Q. Do you know this applicant here? A. No sir.
Q. Did you ever see her before? A. Not that I remember.
Q. Did you ever know a free colored person by the name of Charley

Bowland in that country? A. No sir.
Q. Then, of course, you never knew his wife, Nancy? A. No sir.
Q. Did you say that you stayed at Johnson Whitmire's and went to school? A. Yes sir.
Q. Did you know Johnson Whitmire's wife and family? A. Yes sir
Q. Is Watt one of the children? A. Yes sir.
Q. Where did you go during the war? A. I went south to Red River.
Q. Did you know Cornelius Wright? A. Yes sir.
Q. Did you see him down there? A. Yes sir.
Q. Was he Cale Wright's father? A. Yes sir.
Q. Did he carry any of Johnson Whitmire's slaves down south with him? A. No sir.
Q. It has been sworn that he took some of Johnson Whitmire's slaves and among them was this woman, Nancy, and this applicant. Is that true? A. If he did, he didn't have them when we got to where they were.
Q. You were not old enough to know a white man by the name of Dillingham, were you? A. No sir.

MR. NEAL:

Q. How old did you say you are? A. 56 if I am not mistaken.
Q. You are older than your sister? A. No sir.
Q. Who else was boarding down there and going to school? A. Nobody but me and his boy went to school. Sometimes Aunt Tempie had two sisters who stayed there and went to school.
Q. When were you there? A. I don't know.
Q. Were you there off and on for four or five years before the war? A. I don't know.
Q. Did you stay there more than one year? A. I went from there for two or three sessions.
Q. You never happened to be there when anybody else was boarding there? A. I was there when Aunt Tempie's sisters were there. I don't remember anybody else.
Q. How many years before the war was it? A. I am not able to tell you what year it was. I stayed at home some, and then I didn't get to go to school but very little.
Q. Your cousin, Cale, boarded down there and went to school didn't he? A. I couldn't say whether he did or not. If he went to school from there when I did I don't remember it.
Q. You said that you were of the opinion that Johnson Whitmire had no slave by the name of Nancy who was old enough to have childra at that time? A. No sir.
Q. If he did you don't remember it? A. No sir. I don't remember ever hearing that name called.
Q. You never knew her if she was there? A. No sir, I don't remember any of the folks on the place calling one by that name.

MR. HASTINGS:

Q. If there had been one there by that name would you have known it? A. Yes sir.

MR. NEAL:

Q. You would remember it all these years, would you? A. I don't know, but I think I would. I remember the names of all of the older ones.

COMMISSION:

Q. Where was this school? A. On Barren Fork, on Pea Vine.

Q. How far from Johnson Whitmire's? A. About a mile and a half.
Q. Who had this school? A. An old missionary lady taught the school. I don't remember her name.
Q. Was it a kind of a convent school? A. It was kept up by the Cherokee Nation. It was a public school.
Q. How far away was the nearest school to it? A. I couldn't say positively just how far away. I expect it was 8 miles. I wouldn't be positive, but I expect it was that far.
Q. Was Johnson Whitmire in the habit of taking boarders to attend school? A. Yes sir, and so did my father.
Q. You were convenient to the school, and the people from the neighboring vicinity sent their children over there to board and go to school? A. Yes sir.

MR. NEAL:

Q. You say your father kept boarders? A. Yes sir.
Q. How did it happen that you didn't board at home? A. My uncle had a boy, and had nobody to go to school with him, so I was sent over to go to school with this boy.
Q. How near did your father live to the school? A. About four miles, but he built a house about three quarters of a mile from the schoolhouse where he kept the teacher and boarders.

WITNESS EXCUSED.

(Mr. Neal -- I would like that the case be held open until I can introduce one other witness, the Martha Williams who was actually sold to Dillingham, and if I can get her, I will bring Susie Walkingstick.)

By consent and agreement, this case is continued to May 11, 1905, at 1:30 o'clock, P.M.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 27th. day of April, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson.

Subscribed and sworn to before me this the 29th. day of April, 1905.

Myron Hale
Notary Public.

Cherokee Freedman-R-418 to
431, inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, May 11, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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Neal & London, attorneys for the applicants.

Bell, Hastings & Davenport, attorneys for the Cherokee Nation.

COMMISSION.

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On this, the 11th. day of May, this cause coming on to be heard, the applicants appeared neither in person nor by attorney. The Cherokee Nation, represented by W. W. Hastings, introduces the following testimony:

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Aaron Whitmire, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

MR. HASTINGS:

Q. Your name is Aaron Whitmire? A. Yes sir.
Q. You are a freedman citizen of the Cherokee Nation? A. Yes s sir.
Q. How old are you? A. About 69.
Q. To whom did you belong when the war came up? A. George Whitmire.
Q. What relation was George to Johnson Whitmire? A. They were brothers.
Q. How far apart did they live? A. About four miles when the war come up.
Q. In what District? A. Going Snake.
Q Did they use to live together? A. Yes sir, till they married.
Q. Were you familiar with Johnson Whitmire's slaves? A. Yes sir.
Q. Did you ever know a slave that he had there by the name of Nancy who had Charley Bowland, a free colored man, for her husband? A. Yes sir.
Q. What became of Nancy? A. She was sold to a man by the name of Dillingham.
Q. What was Dillingham's citizenship? A. A citizen of the United States.

Q. Where did he live? A. Right on the line of -- or close to the line of Arkansas.
Q. Did this Nancy have any children when she was sold? A. I think she had one, is all I recollect.
Q. What was that child's name? A. Martha.
Q. Now, I refer to the Nancy who had a husband by the name of Charley Rowland, a free colored man? A. Yes sir, and so do I
Q. About how long before the war was it that she was sold to Dillingham? A. As near as I can recollect, it must have been 8 or 10 years or more.
Q. Did Dillingham continue to live over there in Arkansas till the war come up? A. No sir.
Q. What became of him? A. He went to Texas before the war come up.
Q. Aaron, it has been alleged here that Johnson Whitmire had another Martha whose mother was Dicy, and that Dicy and that Martha were sold instead of this Martha and Nancy. Did he have another woman by the name of Dicy? A. Yes sir.
Q. Did he have her when the war come up? A. No sir, she was dead.
Q. Did he sell her to Dillingham? A. No sir.
Q. When did she die? A. Before the war, and before Nancy was sold.
Q. Did Dicy have any children? A. One.
Q. What was its name? A. Cinthy.
Q. What became of Cinthy? A. She was sold to a man by the name of Russell, who lived in Arkansas.
Q. About how long before the war was she sold? A. 6 or 8 years
Q. Did Johnson Whitmire have any other Dicy? A. No sir, never did.
Q. Did you ever hear of his selling a Dicy to Dillingham? A. No sir.
Q. Did you ever hear of his selling a little girl by the name of Martha, besides this one? A. No sir, this was the only Martha on the place.
Q. Did he have a Martha when the war came up? A. No sir.
Q. Did you ever see the applicant who gives her name as Martha Albert, who is the wife of Collie Albert? A. I haven't seen her since she was sold.
Q. Did Charley Rowland go to Texas? A. Yes sir.
Q. Was he in the Going Snake country when the war came up? A. No sir, I never did see him after he went to Texas.
Q. What became of Johnson Whitmire's slaves? Did any of them go to Texas? A. No sir.
Q. What became of his women slaves? A. They went north.
Q. Who took them north? A. They went off with the soldiers.
Q. How long did you remain up there at the old Whitmire place? A Till '64.
Q. Then you went to Kansas? A. Yes sir.
Q. Had all of Johnson Whitmire's slaves gone off north with the soldiers? A. All but two, and they were with me. They were two very old women -- Amy and Myra.
Q. Had Cornelius Wright gone south? A. Yes sir.
Q. He took his slaves with him? A. Yes sir.
Q. Did Johnson Whitmire have any other Nancy or Nannie other than the one he sold to Dillingham? A. Yes sir, he had a little girl called Nannie.
Q. Who was her mother? A. Sophey.
Q. What was Sophey's name? A. Smith.
Q. What was her husband's name? A. Mose Smith. He is dead.
Q. Where does she live? A. Up here on Big Creek in Coompeecoomee District.

commission.

Q. How many slaves did Johnson Whitmire have at the beginning of the war? A. He had some 20 or 25.
Q. Can you give their names? A. I could name the old ones.
Q. Give me the names? A. The first old woman was Amy, Myra, Hannah, Sookey, Kizzy, Mike, Dick, Martin, Mose, Saphronie, Rachel, Charlotte, Liza, Aby, Frank, Nannie. That is about all I can recollect.
Q. These are all the older ones? A. Yes sir.
Q. The younger ones you do not remember? A. I cannot recollect them.
Q. How many of these slaves do you know of that are living now, of these 15 or 16 you have just named? A. I don't know of but two that are living.
Q. Where are they? A. Up on Big Creek.
Q. What are their names? A. Nannie Smith and Frank Whitmire.
Q. Where does Frank live? A. On Big Creek.
Q. How old a man is he? A. I don't know just how old a man he is -- right at 60 I guess.
Q. Do you know Martha Williams? A. No sir.
Q. Are you positive now that at the breaking out of the war Johnson Whitmire did not have a slave by the name of Martha? A. Yes sir.
Q. Do you know whether he had a child slave by that name? A. No sir, there was not one by the name of Martha.
Q. You know that of your own knowledge? A. Yes sir.
Q. You mentioned in your testimony about a Nancy who had a daughter called Martha, and that they were sold to Dillingham. Have you ever seen them since that time? A. I never have.
Q. Do you know who this applicant is -- have you seen her? A. I don't know that I would know Martha if I saw her.
Q. How far do you live from Fort Smith? A. I live away up near the Kansas line.
Q. Did you say you knew Charley Rowland? A. Well.
Q. Was he a free colored person? A. Yes sir.
Q. Do you know that he married one of Johnson Whitmire's slaves named Nancy? A. Yes sir.
Q. You cannot be mistaken about that? A. No sir.

WITNESS EXCUSED.

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COMMISSION:

After the introduction of the above testimony by the Cherokee Nation, the attorneys for the applicants appear, by their stenographer, Miss Sorenson, and filed with the Commission a motion for continuance.

MR. HASTINGS:

The attorneys for the Cherokee Nation object to the motion for continuance, filed in this case, for a number of reasons, to-wit:

FIRST: --- This case has been continued a number of times upon motion and at the request of the applicants;

SECOND: --- The motion for continuance is not sworn to:

THIRD: --- The motion for continuance does not set up what is expect-

ed to be proven by the said Martha Williams, but only states that she is an important witness, and does not state what is expected to be proven by her, so that the Commission can pass upon the materiality and admissability of the testimony:

FOURTH: --- Because the certificate of the attending physician is not sworn to.

COMMISSION:

The motion for continuance will ne taken under advisement, and the attorneys will be notified by mail.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 11th day of May, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson.

Subscribed and sworn to before me this the 16 day of May, 1905.

FILED

Notary Public.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
MUSKOGEE, I. T., JUNE 22, 1905.

SUPPLEMENTAL PROCEEDINGS had in the matter of the application for the enrollment of MARTHA ALBERT ET AL, as Cherokee freedmen.

BY THE COMMISSION:

Attorneys for the applicant files with the Commission a motion that the exparte affidavit of Martha Williams, heretofore filed, be considered as proof in this cause, because of the death of Martha Williams. This motion has been received by the Commission through the mails.

BY MR. HASTINGS:

The representatives of the Cherokee Nation object to the receiving of the exparte affidavit of Martha Williams or Whitmire in evidence for the reason that the Commission has never under any circumstances received in evidence exparte affidavits, and second the facts set forth in that affidavit have been conclusively shown by a number of witnesses to be untrue.

BY THE COMMISSION:

The papers will be filed with and made a part of the record in this case subject to the objection of the Attorneys of the Cherokee Nation. The case will thus be decided upon the records as made up.

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George H. Lessley, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he reported the proceedings had in the above entitled cause, and that the above and foregoing is a true and correct transcript of his stenographic notes thereof.

George H Lessley

Subscribed and sworn to before me this 7th day of July, 1905.

Edward C Merrick
Notary Public.

A. F. Mc.
D. C. L.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Martha Albert, et al., as Cherokee freedmen, consolidating the applications of:

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|---|---|---|---|---|
| Martha Albert et al., | Cherokee | Freedmen | (D 42) | R 418 |
| Robert Barnes, | " | " | (D 99) | R 419 |
| Lula Knalls et al., | " | " | (D 100) | R 420 |
| Nancy Berkum et al., | " | " | (D 101) | R 421 |
| Henry Albert et al., | " | " | (D 102) | R 422 |
| John Barnes et al., | " | " | (D 103) | R 423 |
| Jerry Albert | " | " | (D 104) | R 424 |
| Lillie White et al., | " | " | (D 105) | R 425 |
| Malinda McLain et al., | " | " | (D 114) | R 426 |
| Frank Gardner | " | " | (D 146) | R 427 |
| Joshua Barnes | " | " | (D 150) | R 428 |
| Sarah Brown et al., | " | " | (D 151) | R 429 |
| Minnie Barnes | " | " | (D 152) | R 430 |
| Maggie Bell et al., | " | " | (D 162) | R 431. |

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D E C I S I O N.

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Martha Albert for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Berkum for herself and minor children, Annie and Walter Berkum; by Henry Albert for himself and minor

children, Harry and Raymond Albert, thereafter, on October 31, 1902, there was filed with the Commission an affidavit showing the birth, on June 4, 1902, of Lewey Albert, son of the applicant, Henry Albert; by John Barnes for himself and minor child, Gussie A. Barnes, thereafter, on August 20, 1902, there was filed with the Commission an affidavit showing the birth, on June 15, 1902, of John A. Barnes, son of the applicant, John Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie and Nancy White, thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on March 8, 1902, of Amos White, son of the applicant, Lillie White; by Charles McLain for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain, thereafter, on September 1, 1901, there was filed with the Commission an affidavit showing the birth, on May 17, 1901, of Mattie McLain, daughter of the applicant, Malinda McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; and by George C. Bell for his wife, Maggie Bell, thereafter, on November 7, 1901, there was filed with the Commission an affidavit showing the birth, on September 18, 1901, of George L. Bell, son of the applicant, Maggie Bell.

THE RECORDS FURTHER SHOW: That on January 11, 1904, the Commission rendered its decision herein, denying said applicants, except Mattie McLain, whose rights to enrollment through an oversight, were not considered, the right to enrollment as Cherokee freedmen, and that on June 21, 1904 (Departmental letter I.T.D. 4732-04), said decision was duly affirmed by the Department; that, thereafter, on March 25, 1905 (Departmental letter I.T.D. 1332-05), on motion of the applicants, this case was reopened by the Department, and remanded for further testimony and readjudication; and that, thereafter, on April 13, and 27, and May 11, and June 22, 1905, further proceedings in the matter of said applications were had at Muskogee, Indian Territory.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Martha Albert, claims the right to enrollment as a Cherokee freedman by virtue of her compliance with the treaty stipulations of 1866, and that all the other applicants herein claim the same right as descendants of the said Martha Albert and one Jennie Barnes, deceased, who, it is alleged, complied with said treaty stipulations of 1866.

The following points are fully established by the evidence, no attempt having been made to disprove them:

(1) That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were full sisters, and were born prior to the commencement of the rebellion.

(2) That all the other applicants herein were born since the commencement of the rebellion, are lineal descendants of the applicant, Martha Albert, and the said Jennie Barnes, deceased, and possess no rights to enrollment as Cherokee freedmen o other than as such descendants.

( The records of this office fail to show that Ruth Barnes, mother of the applicants, Gussie A. and John A. Barnes, has ever made application for enrollment as a Cherokee freedman. Her mother, Millie White, and full sister, Viola White, and full brothers, Jim H. and Harry White, were originally listed for enrollment as Cherokee freedmen on Memorandum cards Nos. 10, 13, and 14, and were later transferred to Freedmen Rejected cards Nos. 317, 320 and 321. On April 24, 1905, their applications for enrollment as Cherokee freedmen were denied by the Commission, and record forwarded to the Department.

George C. Bell, father of the minor applicant, George L. Bell, was denied enrollment as a Cherokee freedman, by the Commission, on April 20, 1904, and on May 26, 1904, -Departmental letter I.T.D. 4050-04,- the Commission's decision was approved by the Department).

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the commencement of the rebellion, but, rather, that several years prior to the commencement of said rebellion, they, together with their mother "Nancy", were sold to one Dillingham, a citizen of the United States, were removed from the Cherokee Nation, and it is further shown that they did not return to said Nation on or prior to February 11, 1867. Excepting the Wallace and Kern-Clifton Rolls, none of the applicants herein can be identified on any roll of the Cherokee Nation in the possession of this office.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 ( 30 Stat., 495), Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A.

Barnes, John A. Barnes, Jerry Alberty, Lillie White, Mattie White, Nancy Waite, Amos White, Malinda Mcklain, Samuel McLain, Mike McLain, Christiana McLain, Charles McLain, Turner McLain, Jennette McLain, Hattie McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Peggie Williams, Minnie Barnes, Maggie Bell, Ann George L. Bell, are each entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

Dated at Muskogee, Indian Territory, this _____

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Martha Albert, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

| | |
|---|---|
| Martha Albert, et al.,..... | Cherokee Freedmen D- 42 |
| Robert Barnes,..... | Cherokee Freedmen D- 99 |
| Lula Knalls, et al.,..... | Cherokee Freedmen D-100 |
| Nancy Borkum, et al.,..... | Cherokee Freedmen D-101 |
| Henry Albert, et al.,..... | Cherokee Freedmen D-102 |
| John Barnes, et al.,..... | Cherokee Freedmen D-103 |
| Jerry Albert,..... | Cherokee Freedmen D-104 |
| Lillie White, et al.,..... | Cherokee Freedmen D-105 |
| Malinda McLain, et al.,..... | Cherokee Freedmen D-114 |
| Frank Gardner,..... | Cherokee Freedmen D-146 |
| Joshua Barnes,..... | Cherokee Freedmen D-150 |
| Sarah Brown, et al.,..... | Cherokee Freedmen D-151 |
| Minnie Barnes,..... | Cherokee Freedmen D-152 |
| Maggie Bell, et al.,..... | Cherokee Freedmen D-182 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Martha Albert, for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls, for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Borkum, for herself and minor children, Annie and Walter Borkum; by Henry Albert, for himself and minor children, Harry and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes, for himself and minor child, Gussie A. Barnes; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert, for himself; by Lillie White, for herself and minor children, Mattie and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Amos White; by Charles McLain, for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner, and Jennette McLain; by Frank Gardner, for himself, by Joshua Barnes, for himself; by Sarah Brown, for herself and minor child, Maggie Williams; by Minnie Barnes, for herself; by George L. Bell, for his wife, Maggie Bell; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell.

The evidence shows that the applicant, Martha Albert, and her sister, Jennie Barnes, now deceased, were not slaves of Cherokee citizens or free colored persons residing in the Cherokee Nation at the commencement of the war of the rebellion. All the other applicants herein, have been born since the commencement of the rebellion and are descendants of and claim right to enrollment through either the said Martha Albert or Jennie Barnes.

None of the names of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Ames White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee Freedmen, should be denied under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby

T. B. Needles

C. R. Breckinridge

D. E. Stanley

Muskogee, Indian Territory,
this JAN 11 1904

Cherokee F.D.-42

Muskogee, Indian Territory, January 11, 1904.

Martha Albert,

Vian, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and your two minor children, Elijah and Ida Albert, as Cherokee Freedmen. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

Tams Bixby,

Commissioner in Charge.

Enc. D-32

Register.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

A. S. McKee,

Attorney for Martha Albert et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred K. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lenny Albert, John Barnes, Dennis A. Barnes, John A Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Melinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jeanetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Ball and George L. Ball as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior

for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

L. B. Needles,

Commissioner in Charge.

Enc. D-30.

Register.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

The decision, with the records of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Enc. D-31.

Commissioner in Charge.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Martha Albert et al., including the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennette McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Through the Commissioner of Indian Affairs.

Enc. D-29.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

A. S. McKenn,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred H. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Lila McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior

for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Enc. D-30
Register.

COPY.

Cherokee P.D-181

Muskogee, Indian Territory, January 11,1904.

Sarah Brown,

Bengo, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11,1904, rejecting, among others, your application for the enrollment of yourself and your minor child, Maggie Williams, as Cherokee Freedmen. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission has been informed of the same.

Respectfully,

T. B. Needles

Commissioner in Charge.

Enc. D-421

Register.

Cherokee Freedmen
D 42

Muskogee, Indian Territory, March 7, 1904.

John Barnes,

Gans, Indian Territory.

Dear Sir:

The Commission is in receipt of your letter of February 8, 1904, acknowledging receipt of the Commission's decision rejecting the application of Martha Albert, et al., for enrollment as Cherokee freedmen.

In accordance with your request there is herewith inclosed one copy of the entire record in the above named case.

Respectfully,

Enc. v-2

Commissioner in Charge.

Refer in reply to the following: COPY

Land 3388-1904.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 9, 1904.

In re

Application for enrollment

as Cherokee Freedmen, viz:

| | | |
|---|---|---|
| Martha Albert, etal. | F.D. 42 | |
| Robert Barnes, et al. | F.D. 99 | |
| Lula Knalls, et al, | F.D. 100 | |
| Nancy Barkus, et al. | F.D. 101 | |
| Henry [redacted] et al. | F.D. 102 | |
| John Barnes et al. | F.D. 103, | |
| Jerry Albert | F.D. 104, | Consolidated. |
| Lillie White, et al. | F.D. 105, | ---------- |
| Malinda McLain, et al. | F.D.114, | |
| Frank Gardner | F.D. 146 | |
| Joshua Barnes, | F.D. 150, | |
| Sarah Brown et al., | F.D. 151 | |
| Minnie Barnes, | F.D. 152 | |
| Maggie Bell, et al. | F.D 182. | |

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith the record of proceedings had before the Commission to the Five Civilized Tribes in the above consolidated cases of Martha Albert et al., affecting the rights of thirty six applicants for enrollment as Cherokee freedmen. The Commission by its decision, dated January 11, 1904, denied the application of all the applicants in the above named cases, to be enrolled as Cherokee freedmen.

The record shows thatapplications for enrollment as Cherokee freedmen were made to said Commission by Martha Albert for herself and minor children Elijah Albert and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and minor children, Sarah French and Fred E. Knalls by Nancy Berkum for herself and minor children, Annie Berkum and Walter Berkum; by Henry Albert for himself and minor children, Harry Albert and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes for himself and minor child, Gussie A. Barnes, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, shewing the birth of John A. Barnes; by Jerry Albert for himself; by Lillie White forherself and minor children, Mattie White and Nancy White; that subsequent to the date of the original application, a birth affidavit,which is made a part of the record herein, was filed with the Commission, shewing the birth of Ames White; by Charles McLain for his wife, Malinda McLain and his minor children, Samuel, Ella, Christian, Charles, Turner and Jennetta McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; by George C. Bell for his wife Maggie Bell, that subsequentto the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, shewing the birth of George E Bell. Claimants base their contention for a right to be

enrolled as Cherokee freedmen upon the claim made that the principal applicant Martha Albert and her sister, Jennie Barnes, now deceased, from whom the other applicants claim descent, were at the commencement of the War of the Rebellion the slaves of one Johnson Whitmire, a Cherokee citizen, that during the war these alleged slaves, Martha Albert and Jennie Barnes went South to Red river in the Choctaw Nation where they remained until the fall of 1866 when they claim to have returned with one Ellis Harlin to the Cherokee Nation and settled with him on the Gale Starr place near Cherokee Junction. The evidence adduced shows that Johnson Whitmire and George Whitmire, brothers and Cherokee citizens, owned before the war several slaves, designated as the "Whitmire darkies." The attempt to identify Martha Albert and Jennie Barnes as one of the "Whitmire darkies" at the commencement of the war has signally failed.

Watt Whitmire, son of Johnson Whitmire, who claims to have known the names of all the slaves of his father, testified that he had no recollection of any two female girl slaves named Martha and Jennie and cannot even recall the fact that his father ever owned a slave named Nancy Whitmire, the mother of said girls. Harry Still whose master was George Whitmire, brother to Johnson Whitmire who only lived four miles distant and knew all the colored people raised by Johnson Whitmire; testified positively that Johnson Whitmire did not own a slave named Nancy Whitmire nor a slave named Martha Whitmire. J. W. Alberty who lived in the Going Snake district, Cherokee Nation

before the war and who well knew Johnson Whitmire from whom he lived a distance of ten or twelve miles, testified, that the Whitmire boys, George Whitmire and Johnson Whitmire, at the time they divided up their property in 1867 sold a slave named Nancy Whitmire with her whole family to a man named Dillingham who moved them with his family right across the line into Arkansas at a town called Dutch Town or Salem where he remained until he moved to Texas in 1880-1; that he knew the darkies "better after Dillingham got them than I did before" and that Dillingham only lived five miles from where witness then lived. It is evident that the principal applicant Martha Albert and her sister Jennie Barnes were living in Arkansas instead of the Choctaw Nation at the close of the war as Jennie Barnes' husband testified that he married her in November, 1866, at Fort Smith, Arkansas, where it appears Jennie Barnes was hired out and where her husband worked much of his time after marriage. Martha Albert claims to have married her husband in the Choctaw Nation during the war while her husband denies having married her until after his return to the Cherokee Nation. The death of Nancy Whitmire, the mother of the principal applicant Martha Albert, is shown to have occured in 1866 but the place of her burial is not definitely shown. The belief that the principal applicant, Martha Albert was living in Arkansas and not in the Choctaw Nation as alleged by her, is further strengthened by the testimony of Mrs. Ruth Hunt nee Ruth Harlin and Mrs. Emma Finley nee Emma Harlin, daughters of Ellis Harlin

with whom it is claimed Nancy Whitmire and her two daughters, Martha and Jennie returned from the Choctaw Nation to the Cherokee Nation in November 1866. Mrs. Hunt and Mrs. Finley testify positively to the fact that their father Ellis Harlin did not return to the Cherokee Nation until February or March 1867, and that no colored people returned in his company, that the first time they ever saw Martha Albert was in the "summer of 1867" when their father "went over in Arkansas somewhere towards Van Buren and hired the man to come and work", that the man's name was Albert and his wife's name was Martha, that neither the man nor his wife ever claimed to have ever been the slaves of Johnson Whitmire whom witnesses knew before the war, nor did either claim to be a Cherokee freedmen that they ever heard of, until the roll was taken at Vinita in 1896 and applicants are identified as former hired help. John Melton testified that Martha Albert's husband told him, "he found her at the Harlin place." If that be true and Martha Albert admits that on her return she first settled on the Gale Starr place on which Ellis Harlin lived it is evident that she did not return to the Cherokee Nation until the "summer of 1867." In view of all the facts and circumstances of this case, this office is of the opinion that the principal applicant Martha Albert and her sister Jennie Barnes now deceased, of whom the other applicants claim to be descendants, were not the slaves of Cherokee citizens at the commencement of the War of the Rebellion nor were they free colored persons in the Cherokee Nation at the commencement of the rebellion and even had

they been, which is denied, it is shown that they went out of the Cherokee Nation and did not return thereto prior to February 11, 1867, in contravention of the treaty of July 19, 1866, which provides:

"All freedmen who have been liberated by voluntary act of "their former owners or by law, as well as all free colored persons "who were in the country at the commencement of the rebellion and "are now residents therein, or who may return within six months, "and their descendants, shall have all the rights of Native "Cherokees."

As the burden of proof lies upon claimants to establish their rights to recognition as Cherokee freedmen under the provisions of the treaty of July 19, 1866, and as they have failed to bring themselves within its purview, it follows that all of the foregoing applications as Cherokee freedmen must be denied.

We come now to the discussion of another point involved. It appears of record that the names of Martha Albert and her minor children Elijah and Ida are found upon the Kern-Clifton roll while the names of several of the descendents are found upon the Wallace roll. None of the applicants names are to be found upon the authenticated roll of 1880 nor upon the census roll of 1896.

Attorney for applicants contends that as the name of Martha Albert and her minor children, Elijah and Ida appear upon the Kern-Clifton roll, that such fact is cumulative of their rights as Cherokee freedmen and pleads <u>res judicata</u> to any action by the Commission. Such contention can not be maintained. Congress by Act of June 28, 1898, sec. 21, directed the commission

to the Five Civilized Tribes as follows:

"It shall make a roll of Cherokee freedmen in strict "compliance with the decree of the Court of Claims rendered the "third day of February eighteen hundred and ninety-six."

The Court in its decree of February 3, 1896 (See P.4), instructed said Commission as follows:

"The said Commissioners in ascertaining the identity of the "freedmen entitled to share under the decree, shall accept that is "known as the authenticated Cherokee roll, the same now being on file "in the office of the Secretary of the Interior, having been "furnished to him and purporting to have been taken by the Cherokee "Nation in 1880 for the purpose of showing the number of freedmen "then entitled to citizenship in the said nation under the terms "of the treaty between the United States and the Cherokee Nation "hereinbefore referred to, and their descendants, and no evidence "shall be accepted by said commission tending to disprove the "citizenship of any of the persons whose names appear upon "said roll", and supplementary thereto, Sec. 21, of the Act of June 28, 1898, states squarely the proposition that the roll of Cherokee citizens of 1880 (not including freedmen) is "the only roll intended to be confirmed by this and preceding Acts of Congress", thus in effect declaring that the plea of res adjudicata can not prevail unless the name of the applicant appears upon the authenticated roll of 1880 - which is not here claimed. Neither the fact of claimant's name appearing upon the Kerns-Clifton roll nor the fact of the names of her descendants

appearing upon the Wallace roll, constituted any bar to further action by the Commission, as the commission was expressly empowered by sec. 21 of the Act of June 28, 1898, to "investigate the right "of all other persons whose names are found on any other rolls "and omit all such as may have been placed thereon by fraud or with "out authority of law, enrolling only such as may have lawful right thereto." Thus the Commission was left free to act, as upon a new inquiry, to determine what freedmen, omitted from the roll of 1880 but "whose names are found on any other rolls" are entitled to the benefit of Article IX of the treaty of 1866. For the foregoing reasons, I concur in the opinion of the Commission that the applications for enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert Raymond Albert, Lewey Albert, John Barnes, Cassie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christian McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Maggie Ball and George L. Ball, as Cherokee freedmen, should be denied under the provisions of sec. 21 of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is recommended that the decision of the Commission therein, dated January 11, 1904, be affirmed.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

EH

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W.C.P.

D.C. 21473-1904

J.P.

I.T.D. 4732-1904.

FMR

I. R. S

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 21, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 11, 1904, you transmitted the record in the consolidated case embracing the applications of Martha Albert et al (F.D.-42), for enrollment as Cherokee freedmen, including your decision of the same date, rejecting the applications.

Reporting June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department affirms your decision, for the reasons stated therein.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

1 inclosure.

Cherokee Freedmen

D-151.

Muskogee, Indian Territory, June 28, 1904.

Sarah Brown,

Benge, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and one minor child, Maggie Williams, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

B-61 et al.

Muskogee, Indian Territory, June 28, 1904.

A. S. Mehan,

Attorney for Martha Albert, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha, Elijah, Ida, Albert, Robert, Barney, Lula Fields, Sarah Brown, Fred L. Fields, Henry, Harry, Raymond, Lewey, Albert, John, Overton, John A., Barney, Jerry Albert, Lillie, Nettie, Henry, Anna, Victor, Malinda, Samuel, Ella, Charles, Turner, Jennette, Christiana, Fields, Frank Gardner, Joshua Barnett, Sarah Brown, Maggie Williams, Rhoda Harper, Hughes, George W., Bell, Henry, Annie, Walker, Bennett, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-42 et al.

Muskogee, Indian Territory, June 28, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha, Elijah and Ida Albert; Robert Barnes; Lula Knolls, Sarah French, and Fred M. Knolls; Nancy, Annie and Walter Bayhan; Henry, Harry, Raymond and Leroy Albert; John, Gracie A., and John., Barnes; Jerry Albert; Lillie, Mattie, Hattie, Nancy, and Anna White; Malinda, Samuel, Ella, Charles, Turner, Jennette, Christiana, McCoin; Frank Garinet; Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George., Bell; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-GH.

Muskogee, Indian Territory, June 28, 1904.

Martha Albert,

Vian, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and your two minor children, Elijah and Ida Albert, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

Dead et al.

Muskogee, Indian Territory, June 24, 1904.

W. T. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha, Elijah and Ida Alberty; Robert Reeves; Lula Keeler, Sarah Trumbo, and Fred A. Keeler; Henry, Annie and Esther Reeves; Henry, Harry, Raymond and Lenny Alberty; Jean, Nicie A., and John., Reeves; Perry Alberty; Lillie, Hattie, Nellie, Henry, and Amos Daisy; Malinda Hannah, Mike, Charles, Esther, Jeanette, Christiana, Rebecca Frank Hartman; Forbes Reeves; Sarah Bryan, Maggie Williams, Minnie Reeves Keefe, Georgia., Kelly was affirmed by the Secretary of the Interior on June 22, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-42 et al.

Muskogee, Indian Territory, June 22, 1904.

A. S. McRae,

Attorney for Martha Albert, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha, Elijah, Ida, Albert; Robert Barnes; Lula Knalls, Sarah Fronah Fred E. Knalls; Henry, Harry, Raymond, Lewey, Albert; John, Garried. John A., Barnes; Jerry Albert; Lillie, Mattie, Nancy, Anne, White; Malinda, Samuel, Ella, Charles, Turner, Jennette, Christiana, McLain; Frank Gardner; Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George L.; Bell; Nancy, Annie, Walter, Boyton; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

COPY.

Cherokee Freedmen

R-418.

Muskogee, Indian Territory, April 8, 1905.

Martha Albert,

Vian, Indian Territory.

Dear Madam:

In the matter of the application for the enrollment of yourself, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1332-1905), remanding this case for rehearing and readjudication.

You are, therefore, hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as you may desire in the matter of your said application. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

T. B. Needles.
Commissioner in Charge.

Incl. R-48,
Register.

COPY.

Cherokee Freedmen

R-418, et al.

Muskogee, Indian Territory, April 8, 1905.

Neal & London,

Attorneys for Martha Albert, et al.,

Fort Smith, Arkansas.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1352-1905), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED). T. B. Needles.
Commissioner in Charge.

Incl. S-63.
Register.

COPY.

Cherokee Freedmen

B-418, et al.

Muskogee, Indian Territory, April 8, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that this Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1532-1905), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED) T. B. Needles.

Commissioner in Charge.

Incl. C-48

COPY.

Cherokee Freedmen

E-416.

Muskogee, Indian Territory, May 1, 1905.

Neal & London,

Attorneys for Martha Albert, et al.,

Fort Smith, Arkansas.

Gentlemen:

There is herewith inclosed a copy of supplemental testimony taken at Muskogee, Indian Territory, on April 27, 1905, in the matter of the application for the enrollment of Martha Albert, et al., as Cherokee freedmen, together with a blank form of receipt which you are requested to sign and return to the Commission.

Respectfully,

(SIGNED) Tams Bixby

Chairman.

Incl. 8-4

COPY.

Cherokee Freedmen

R-418, et al.

Muskogee, Indian Territory, May 17, 1905.

Neal & London,

Attorneys for Martha Albert, et al.,

Fort Smith, Arkansas.

Gentlemen:

There is herewith inclosed a copy of supplemental testimony taken at Muskogee, Indian Territory, on May 11, 1905, in the matter of the application for the enrollment of Martha Albert, et al., as Cherokee freedmen, together with a blank form of receipt which you are requested to sign and return to the Commission.

Respectfully,

(SIGNED) Tams Bixby
Chairman.

Incl. S-93

Cherokee Freedman
R-418

COPY.

Muskogee, Indian Territory, July 24, 1905

Martha Albert,
Vian, Indian Territory.

Dear Madam:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, denying your application for the enrollment of yourself and children, Elijah and Ida Albert, as Cherokee Freedmen. There has heretofore been furnished your attorneys, Neal and London, Fort Smith, Arkansas, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED) Tams Bixby.
Commissioner

Incl.-B 23

Cherokee Freedman R 418 et al

Muskogee, Indian Territory, July 24, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment as Cherokee Freedmen of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cassie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Ames White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennette McLain, Mattie McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, including the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1906, rejecting said applications.

On January 11, 1904, the Commission to the Five Civilized Tribes rendered its decision denying said applicants,

Secretary--2-

accepting Hattie McCain, these rights to enrollment were not of that time considered, and on June 21, 1904 (I.T.D. 4748-1904), said decision was affirmed by the Department, on March 25, 1905 (I.T.D. 1206-1905), this case was reopened in the Department, and returned for further hearing and readjudication.

Respectfully,

(SIGNED) James Bixby.
Commissioner

Through the
Commissioner of Indian Affairs.

Cherokee Freedmen
R 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1905

Neal and London,

Attorneys for Martha Albert, et al.,

Fort Smith, Arkansas.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al. C.F.R. 418, Robert Barnes, C.F. . 419, Lula Khalls, et al., C.F.R. 420, Nancy Berkum et al., C.F.R, 425, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White, et al., C.F.R. 424, Malinda McLain et al., C.F.R. 426, Frank Gardner, C.F.R. 430, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R., 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Neal and London--2.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED: Tame Bixby.
Commissioner

Incl. R-38

Cherokee Freedman
R 416 et al.

COPY.

Muskogee, Indian Territory, July 24, 1906

Bell, Hastings and Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1906, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al., C.F.R. 416, Robert Barnes, C.F.R. 417, Lula Khalil et al., C.F.R. 420, Henry Berkum et al., C.F.R. 422, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White et al., C.F.R. 424, Malinda McLain et al., C.F.R. 426, Frank Gardner, C.F.R. 426, Joshua Barnes C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C. F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Bell, Hastings & Davenport--2

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED). James Bixby.

Commissioner

Incl. E-36

DEPARTMENT OF THE INTERIOR,

LAND
59348-1905.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

August 12, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated July 26, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Martha Albert for herself and her minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and her minor children, Sarah French and Fred E. Knalls; by Nancy Berkum for herself and her minor children, Annie and Walter Berkum; by Henry Albert for himself and his minor children, Harry, Raymond and Lovey Albert; by John Barnes for himself and minor children, Dennis A. and John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and her minor children, Mattie, Nancy and Amos White; by Charles McClain for his wife, Malinda McClain, and his minor children, Samuel, Ella, Christiana, Charles, Turner, Jennetta and Mattie McClain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself, and by George C. Bell for his wife, Maggie Bell, and his minor child George L. Bell.

July 24, 1905, the Commission decided adversely to all the applicants.

The record shows that on January 11, 1904, the Commission rendered a decision denying these applicants, except Mattie McClain inadvertently omitted, and that on June 21, 1904, the decision was affirmed by the Department; that thereafter, on March 25, 1905 (I.T.D. 2332-1905) the Department reopened and remanded the case for further testimony and readjudication.

The record further shows that the applicant, Martha Albert and Jennie Barnes, deceased, were full sisters, and were born prior to the beginning of the war of the rebellion; that all the other applicants were born since the beginning of the war, are lineal descendants of the applicant, Martha Albert and Jennie Barnes, deceased, and possess no rights to enrollment other than as such descendants.

It is further shown that the applicant, Martha Albert and Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the beginning of the war of the rebellion, and that they did not return to the Cherokee Nation on or before February 11, 1867.

Excepting the Wallace and Kern-Clifton, none of the applicants is identified on any roll of the Cherokee Nation.

In view of the record the approval of the Commission's decision adverse to all of the applicants is recommended.

Very respectfully,
C. F. Larrabee,
Acting Commissioner.

M.M.M.
W.

S.P.

WASHINGTON.

G. T. D. 8297 September 7, 1905.

The Honorable

The Secretary of the Interior,

Washington, D. C.

Sir:

Please find herewith motions for the reconsideration and reviewing of the cases of the Cherokee Freedmen applicants for enrollment as Cherokee citizens whose names are contained in the enclosed schedule.

In accordance with the opinion of the Assistant Attorney General, dated March 22, 1904, it is believed that each one of these Freedmen on August 11, 1866, and February 11, 1867, were possessed of a legal domicile in the Cherokee Nation, and were, therefore, vested with Cherokee citizenship. The opinion referred to stated "the provision was intended to operate to the benefit of the persons of the classes described whose legal domicile was in the Cherokee Nation. X X X I am of opinion that physical return of the person within the time prescribed by the Treaty was not necessary in those cases where a domicile theretofore held in the Cherokee nation had not been abandoned or lost."

It is respectfully submitted that each one of the claimants herein had possessed a legal domicile in the Cherokee Nation which they had not lost prior to February 11, 1867, and

therefore had acquired Cherokee citizenship. If they have not lost or abandoned such citizenship since that time, they are now entitled to be enrolled. Such citizenship can only be lost by withdrawing from the Cherokee Nation Sine Anime Revertendi, or through the express provision of some Cherokee law by which such citizenship is forfeited. The Cherokee Constitution, Sec. 2, Art. 1, provides, "Whenever any citizen shall remove with his effects out of the limits of this Nation and becomes a citizen of any other Government, all his rights and privileges as a citizen of this Nation shall cease." None of the claimants herein have become citizens of any other Government. We have been unable to find any further provisions of the Cherokee laws by which these freedmen claimants would be deprived of such domicile and citizenship. In his opinion of May 9, 1905, the Assistant Attorney-General holds that "at the time of the emancipation of the slaves by the Cherokee Nation, February 1863, referred to by Art. IX of the Treaty (14 Stat. 801), the slave became a free man, and the right of choice of his domicile arose to him." This opinion further holds that the same conditions apply to these Freedmen as to native Cherokee citizens in the loss or abandonment of such citizenship. Therefore, these motions are filed for the purpose of securing for each of these claimants a reconsideration by the Department of the evidence offered in support of their right to Cherokee citizenship based on their having acquired citizenship under the Treaty of 1866 through legal domicile in

the Nation and they have never lost or forfeited such citizenship by removing from the Nation sine anime reverteindi or becoming citizens of any other Government.

Very respectfully,

McKeenan, Serven & Mahnn.

I.T.D.
8297 and 8337 to
8957 inclusive.
1905.

JRW

DEPARTMENT OF THE INTERIOR,

Office of the Assistant Attorney-General.

Washington.

January 10, 1906.

The Secretary of the Interior,

Sir:

I received by reference of September 20, 1905, motions "for review of decision," denying applications for enrollment as Cherokee freedmen. The numeral memorandum at head of the reference (copied at head hereof) indicates that the motions involve seven hundred and twenty-two cases, though the motions referred to me number but three hundred and eleven. The letter of reference, among other things, states:

In but few of the motions is any reference made to the decision in the case, if any, made by the Department, and the Department has found in such papers, as a means of identification of the case, with few exceptions, only the names of the applicants and the case number of the Commission to the Five Civilized Tribes. It therefore has not undertaken to determine what decisions it has rendered, affecting parties with names given in the schedule and motions, nor to procure from the Indian Office the records in such cases. In a number of instances the cases are awaiting action in the Department, no decision ever having been rendered.

- - - - - - - - - -

The Department, as it understands opinions of your office, has always held that persons of African descent, mentioned in article 9 of the treaty of 1866 (14 Stat., 799-801), then absent from the Cherokee nation, could not be recognized as citizens of the nation unless they returned to reside in the nation within the time specified in the treaty, or are able to show that the failure to so return was owing to circumstances beyond their control . . . . . .

- - - - - - - - -

In order that the question of law, somewhat irregularly again raised (see your opinion of July 24, 1905), may be more definitely settled, if possible, by an opinion by you, all the papers filed by said attorneys are submitted for your information, and for such opinion. It is not expected, of course, that you should pass upon each case or any particular case. The Department will dispose of the motions under such opinion as you may render, if approved.

The motions seem to fall within two general classes: (1) Wherein a decision adverse to the applicant has been made by the Department (I.T.D., 859-1905, Ross et al). (2) Wherein the Department has made no decision, and the case is yet pending on the report of the Commission to the Five Civilized Tribes adverse to the applicant (I.T.D., 8603-1905, George Ions et al). In neither class is it sought to reopen the case for taking further evidence, but the applicants seem content to rest on the proof as made before the Commission. The motions are therefore not for hearing, or for opportunity to offer further proof.

The motions of the second class mentioned above, based on records not yet passed upon by the Secretary of the Interior, are in form addressed to the Secretary for shaping of his action in review of the records transmitted by the Commission, and do not seek a remand of the records to the Commission for its review of its own action. They ask the Secretary to overrule and reverse the action of the Commission and to enroll the applicant. A motion of this character and for this relief is not properly one for review, but is properly an exception or objection to the decision of the Commission, challenging the decision for alleged errors of fact or law and seeking its reversal by the supervisory tribunal upon the facts shown in the record.

Motions of this class call for no present action by the Department separate from consideration of the case upon its merits. Such motion (exception) is to be considered at the time that the case is taken up on its merits, and decision of the case upon the merits disposes of the motion, the only office of which is to direct the re-

sla imed to have been made by the tribunal of first instance.

The motions of the first-mentioned class call for a re-examination of the record in a case decided, and are properly motions for review, asking the Department, which has rendered a decision in the case, to review the record and correct its own decision because of errors alleged.

Upon reconsideration and re-examination of article 9 of the treaty of July 18, 1866, I have no doubt that the words "are now residents therein or who may return within six months" have reference to the legal domicile of the persons referred to and not to their actual or temporary place of abode. My reasons for such construction have been given in my opinions of March 28, 1904 (I.T.D. 641-1904); April 16, 1904, Charles Foreman (I.T.D. 1240-1904); May 9, 1905, Burrell Daniels (I.T.D. 1706-1905; October 5, 1905, Josie Alberty (I.T.D. 1704-1905), and probably in other cases. The three latter opinions applied to concrete facts involving the question of legal domicile at a place other than actual presence, but can not be said to solve every case that may arise.

The question of legal domicile is always a mixed question of law and fact to be determined in each case as the facts and legal conclusions therefrom may warrant. No general rule can be laid down applicable to every case. It is in general the legal presumption that the legal domicile of a person free to choose his place of abode is at the place where is his actual abode, with no present intent at a definite time or upon the happening of a definite event, to betake himself to some other certain place with intent there to remain. It is also in general the legal presumption that the legal domicile of a minor is at the place of legal domicile of the parent to [illegible]

right to control the minor, if such parent, or person standing in that place is himself free to choose his own place of abode.

These presumptions may be rebutted, as indicated in my opinions in cases of Charles Foreman and Burrell Daniels. As above remarked, the circumstances therein existing are not exclusive of any others that may arise showing that legal domicile was elsewhere than at the place of actual residence, as noted in my opinion of October 5, 1905, in case of Harry Still (I.T.D.7658-1904). Every case has to be determined upon the facts it presents, viewed and adjudged rationally from the standpoint of human experience and the conduct of the ordinary home, country, and comrade-loving human being, acting under the conditions proved to exist in the particular case under consideration.

Where the Commission has based its action upon the erroneous ground that the treaty requires proof of actual physical presence and fixed abode in the nation on or prior to February 11, 1867, such decisions are erroneous, and when the action comes before the Department for review, the evidence should be scrutinized and the case decided upon the proper ground of what it shows as to legal domicile. If the record shows that the facts may not have been fully presented and was tried upon an erroneous theory, and the applicant desires to adduce further proof and makes proper application therefor, a rehearing should be granted. If the Department has already decided the case upon a similar erroneous ground, or without due consideration of the evidence tending to show legal domicile in the nation within the time fixed, it should review the case, and upon such review proceed further as above indicated in cases not yet determined.

Very respectfully,
Frank L. Campbell,
Assistant Attorney General.

Approved: January 10, 1906.
E. A. Hitchcock,
Secretary.

Y.P.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

I.T.D.8297, 8337 to 8957,
inclusive (odd numbers)-1905.
480-1906. January 18, 1906.

LRB

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

There is inclosed a copy of the opinion of the Assistant Attorney-General dated January 10, 1906, approved by the Department, relative to 311 motions in Cherokee freedman cases.

Press copy of a schedule of names of claimants in said cases, furnished by the Attorneys who filed the motions, and of the letter of said attorneys, together with a copy of departmental letter of even date to said attorneys, are also inclosed.

Advise the attorneys for the Cherokee nation hereof.

Respectfully,

(Signed) Thos Ryan

First Assistant Secretary.

Through the Commissioner
of Indian Affairs.

4 inclosures.

( C O P Y )

LLB

Copy-

DEPARTMENT OF THE INTERIOR

WASHINGTON.

I. T. D. 460-1906 January 15, 1906.

Messers. McCowan, Serven & Mahan,

Glover Bldg. Washington , D. C.

Gentlemen:

Referring to your letter of september 7, 1905, filing motions in 311 Cherokee freedmen cases, there is inclosed a copy of an opinion of the Assistant Attorney-General of January 10, 1906, approved by the Department, in the matter.

The Department is not aware that it has rendered decisions in any of the cases in question upon "erroneous grounds" discussed by the Assistant Attorney-General, even if the Commission to the Five Civilized Tribes may have done so, or "without consideration of the evidence tending to show legal domicile in the nation." Each case, so far as the Department is aware, has been determined on the facts shown by the record and legal conclusions therefrom warranted.

The Department has always followed, in these cases, the law as construed by the Assistant Attorney-General. Reexamination of the existing records in such cases decided by the Department, would, therefore, doubtless result in the same conclusion heretofore reached.

The motions, with few exceptions, do not allege any

error as to the facts, and in a great majority of said motions it is not alleged that the record in the case does not show that the facts may not have been fully presented, or that the case was tried upon an erroneous theory.

In harmony with said opinion, you are advised that if you desire to file motions for rehearing in any of such cases, in order to allow the applicants an opportunity to adduce further proof, proper application should be made for that purpose. Further action will accordingly be suspended upon said motions for a reasonable time, to be fixed by the Department, upon application by you.

If in any of these cases it is not desired to file a motion for rehearing, it is requested that you so indicate to the Department.

Respectfully,

Thos. Ryan
First Assistant Secretary

1 inclosure.

-COPY- G.R.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

D.C. 22958.
I.T.D. 4732-1904.
1332-1905.
8789- "
10286- "
L.R.S.

June 2, 1906.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

July 24, 1905, you transmitted the remanded record with your readjudication in the matter of the consolidated applications for the enrollment of Martha Albert et al. as Cherokee freedmen, including your decision of same date, adverse to all the applicants.

August 12, 1905, the Acting Commissioner of Indian Affairs reporting thereon, recommended that your decision dated July 24, 1905, adverse to all the applicants named in his said letter, be approved. A copy of his letter, including the names of applicants affected by this decision, is inclosed.

The Department concurs in the recommendation made and your decision dated July 24, 1905, denying the application for the enrollment of Martha Albert and others named in Indian Office letter of August 12, 1905, is hereby affirmed.

A motion for review of said decision filed with the

Department on September 7, 1906, by Messrs. Blue & Bulger and McGowan, Serven & Mahon, attorneys for moving parties therein, is hereby denied.

Respectfully,

Jesse R. Wilson,

Assistant Secretary.

1 inclosure.

COPY.

Cherokee Freed-
men R 416

Muskogee, Indian Territory, June 15, 1906.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED

Tams Bixby.

Commissioner.

Encl.P-16
MMP

COPY.

Cherokee Freedman
R 418

Muskogee, Indian Territory, June 15, 1906.

Blue & Bulger,
Attorneys for Martha Albert,
Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that the motion filed by you September 7, 1905 for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully, (SIGNED).

Tams Bixby.
Commissioner.

Inel.P-17
MCP

Cherokee Freed-
man R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Martha Albert,

Vian, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting, among others, your application for the enrollment of yourself and children as Cherokee freedmen, was affirmed by the Secretary of the Interior June 8, 1906, and that a motion for review of your case filed September 7, 1905 is denied.

Respectfully,

(SIGNED).

Tams Bixby.

Commissioner.

MMP

Cherokee Freedman
R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Neal & London,
Attorneys for Martha Albert,
Ft. Smith, Arkansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED)

Tams Bixby.

Commissioner.

Incl.P-15
MMP

Muskogee, Indian Territory, March 15, 1907

Mattie Albert,

Care of Mayer & Co. 314 Garrison Avenue.

Fort Smith, Arkansas.

Dear Madam:

This office is in receipt of your letter of March 1, asking to be advised the status of your Cherokee freedman citizenship case.

In reply you are advised that your application for the enrollment of yourself and children as Cherokee freedmen was denied by the Secretary of the Interior June 2, 1906.

Respectfully,

L M B

Commissioner

Cherokee Freedmen
R 418

Muskogee, Indian Territory, April 11, 1907

Mattie Albert,

Fort Smith, Arkansas.

Dear Madam:

This office is in receipt, by reference of the Secretary of the Interior, of your letter of March 22, asking to be advised the status of your Cherokee freedman citizenship case.

In reply you are advised the records of this office show that your application for the enrollment of yourself and your children, Elijah and Ida Albert, as Cherokee freedmen, was denied by the secretary of the Interior on June 2, 1906. A motion for review of said case was also denied by the Department on the same date.

Respectfully,

L M B

Acting Commissioner

CR-R-418

COMMISSION TO BE INDEXED

| No. | Received | Book | Page |
|---|---|---|---|
| 21209 | APR 27 1905 | | |
| 1905 | | | |

London, John,
Ft.Smith, Ark.,
April 22, 1905.

States that it is impossible for Martha Williams, a witness in the Albert case to be present. Asks that case be held over.

Form No. 108.

# THE WESTERN UNION TELEGRAPH COMPANY.

INCORPORATED

22,000 OFFICES IN AMERICA. CABLE SERVICE TO ALL THE WORLD.

This Company TRANSMITS and DELIVERS messages only on conditions limiting its liability, which have been assented to by the sender of the following message. Errors can be guarded against only by repeating a message back to the sending station for comparison, and the Company will not hold itself liable for errors or delays in transmission or delivery of Unrepeated Messages, beyond the amount of the tolls paid thereon, nor in any case where the claim is not presented in writing within sixty days after the message is filed with the Company for transmission.

This is an UNREPEATED MESSAGE, and is delivered by request of the sender, under the conditions named above.

ROBERT C. CLOWRY, President and General Manager.

RECEIVED at 51 KS HA N

17PaidPaid

FtSmith Ark April 27-1905

Commission,To the Five Civilized Tribes,

Care Cherokee Enrollment Division,

Muskogee I.T.

Impossible to get martha Williams witness in albert case

there mailed you physician certificate hold case open,,,,

John London.....1145AM

Tahlequah Indian Territory, July 19 1901

RECEIVED OF THE COMMISSION TO THE FIVE CIVILIZED TRIBES

one copy of the testimony in Martha Albert et al

vs Cherokee Nation

Walter Landon

Attorney for Applicant.

Vian, Ind. Ty.
Dec 1, 1902,

To The Hon. Dawes com,
Sirs:—

When you make a decision in my citizenship case, "Doubtful Cad:" please advise me at Vian, Ind. Ty. as I have moved away from Melvin, where I lived when I first appeared before the com, for enrollment; so therefor change my P. O. address. Please also notify, McRae, my atty of same, at Muskogee, Ind.

Very Respectfully,

her
Martha x Albert.
mark.

Muskogee Indian Territory, 7/7 1905

RECEIVED OF THE COMMISSIONER TO THE FIVE CIVILIZED TRIBES one copy of the testimony in Martha Abbott et al

of June 22 '05

Neal & Lawson
Attorney for Applicant.

F. L. Smith Agent U.S.

Indian Territory, _____ 1903.

RECEIVED OF THE COMMISSION TO THE FIVE CIVILIZED TRIBES

one copy of the testimony in Martha A. Blunt et al

vs Cherokee Nation

Mad & Lowber

Attorney for Applicant.

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Martha Albert,
Vian, Indian Territory,
Cherokee F-R-42
Register
Copy to A.S.McRea,Att'y.,
Muskogee, I.T.

Cher. Fr. R. 419

See Cher. 418, 420, 431

Cher. Fr. R. 419

F-11

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FILED
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ACTING CHAIRMAN

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 16, 1901.

In the matter of the application of Robert Barnes for the enrollment of himself as a Cherokee Freedman; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Q Give me your full name? A Robert Barnes.
Q How old are you? A 43
Q What is your post-office? A Foreman.
Q In what district do you live? A Sequoyah.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A My youngest sister; all the children is grown but my sister.
My mother is dead; I am applying for my brothers and sisters.
Q Why don't they apply for themselves? A Well, I am putting in the case for us.
Q Are your brothers and sisters all of age? A Yes sir, all but one.
Q Since they are of age why don't they apply for themselves?
A Well they will do that.
Com'r: The law requires that unless there is some very strong reason to the contrary.
Q You have one sister under age? AYes sir.
Q Does she live with you? A Lives with my father.
Q Where is your father? A He is at home.
Q He should apply for his child? A He don't claim any right himself.
Q Yes but he is the father, and he should apply for his child.
Q You apply then for yourself: how long have you lived in the Cherokee Nation? A Always.
Q All your life? A Yes sir.
Q Give me the name of your father? A Sam Barnes.
Q He is alive? A Yes sir.
Q Give me the name of your mother? A Jennie Barnes.
Q Is she alive? A No sir, she is dead.
Q How long has she been dead? A About ten years.
Q You say your father is not a Cherokee Freedman? A No sir.
Q Was your mother a Cherokee Freedman? A Yes sir.
Q You have never lived anywhere except in the Cherokee Nation?
A No sir.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

1896 census roll of citizens of the Cherokee Nation examined and name of applicant not identified thereon.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and name of applicnt not identified thereon.

Q You don't appear to be upon any roll of the Cherokee Nation?
A I am on the Wallace roll.
Q Could you have been enrolled under any other name? A No sir.
Q Has your mother lived with your father ever since they were married? A Yes sir.
Q Willie, Charley and Turner Barnes, are they your folks? A No sir.
Q How old was your mother when she died? A I think she was about 42 or 3.
Q Where was your mother born? A In Goingsnake.
Q Was she a slave before the war? A Yes sir, said she was.
Q To whom did she belong? A Johnson Whitmire.
Q Where was she during the war? A I don't know sir.

Q Where were you born? A I was born in Sequoyah District.
Q Do you know where your mother was in '66 or '67? A Why she said she was living down there near Cherokee Station.
Q She was married to your father at that time? A Yes sir.

Com'r:Well, you see, so far you are without any evidence except hearsay evidence, that you have, about your mother beingeither a slave before the war, having been set free in the Nation in any way, and about where she was during the war, and when she got back; you see you were not born until '67 or '68, according to your age, and you are not on any roll, and you had better have your father come in and apply for this child, and give testimony also in your case; he may be able to throw some light on it.

Q Is there no witness you want to bring in? A Yes sir, Mat Albert.

MARTHA ALBERT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give your name there, please? A Martha Albert.
Q How old are you? A I am about 57 or 8 years old.
Q What is your post-office? A Melvin.
Q In what district do you live? A Live in Tahlequah District.
Q You want to give some evidence here in the application of Robert Barnes don't you for enrollment? A Yes sir.
Q You have made an aplication for yourself and two children' A Yes sir.
Com'r: This is D 42.)
Q A trouble in your ~~xxxx~~ own application appeared to be to establish when you came back to the Cherokee Nation after the war? A I came back here two months before the '66 treaty went off.
Q You know Robert Barnes do you? A Yes sir.
Q How long have you known him? A I have knowed him ever since he has been born; he was my sister's child.
Q Child of your sister Jennie? A Yes sir.
Q She belonged to Johnson Whitmire? A Yes sir.
Q Were you and she taken out of the Cherokee nation during the war? A We went to Red River in the Choctaw Nation.
Q You didn't go across the river? A No sir, we never crossed into Texas.
Q Was your sister there with you? A Yes sir.
Q And both of you belonged at that time to Johnson Whitmire, did you? A Yes sir.
Q Well did she come back with you? A Yes sir.
Q Johnson Whitmire brought you both back? A No sir, my father brought us back.
Q You and your sister came back together? A Yes sir.
Q What was the father doing down there? A Well we went south.
Q Was he working down there? A Yes sir.
Q On a planatation? A Yes sir, he was a free man; he always just dug wells around for people.
Q Your father was a Free man? A Yes sir.
Q But your mother was a slave? A Yes sir.
Q Did she come back with you and your sister? A Yes sir.
Q What business did you say your father did? A He dug wells and worked around for people.
Q And he brought your mother and both of you back? A Yes sir.
Q In what year did he bring you and your sister? A 1866 when I come back here.
Q What time of the year was it? A It was in the fall of the year.
Q Where did your sister locate when she came back? A She located down here close to Cherokee Junction.

Q Were you in the same neighborhood with her? A Yes sir, right in the same yard.
Q Were you on a plantation or about the town? A I was on Cale Starr's place.
Q On a farm? A Yes sir.
Q He is not living now, Cale Starr, is he? A I don't know.
Q Any of his children living? A I don't know.
Q Is his wife living? A I don't know that,neither; I have been living in Sequoyah.
Q Are there any of the people who were living there on that place at that time living now? A No sir, not on that place; there wasn't no one there but us working the farm, rented the place.
Q You and your sister were on that place? A Yes sir.
Q But there were no colored people on it but just you and your people? A Yes sir.
Q Well now how many people were in your family at that time, you and your sister and who else? A Me and my sister and our husbands.
Q Was her husband then living, Sam Barnes? A Yes sir.
Q And your husband, is he living? A Yes sir.
Q Has your husband testified in your case? A No sir.
Q Why didn't you bring your husband? A He is in here somewheres.
Q Your sister's husband is not here is he? A No sir.
Q Did your husband go around the country digging wells after he got back? A My father.
Q Was he with you when you got back? A Yes sir, brought us back.
Q Did he go around the country digging wells? A No sir, he didn't dig any wells after he got back.
Q What did he do? A He farmed.
Q Was he living with you there on Mr. Starr's place? A Yes sir.
Q Your father is dead now? A Yes sir.
Q Who had farms there in that neighborhood? A Old Uncle Jack Campbell.
Q Is he alive? A No sir, he is dead.
Q Anybody else? A Yes sir, Dave Choate had a place right there joining.
Q Named Chouteau? A Named Choate, Cherokee.
Q Is he living? A I don't know.
Q Do you know anybody who is living now that was living in that neighborhood there and knew you all? A Yes sir.
Q Well give their names? A Eliza Franklin, ~~Franklin~~ it aint Franklin now; that was her name when I knew her; her name is Eliza McCrady now.
Q Is she about the room now? A No sir, she is living down in Sequoyah; she is a Cherokee.

Examined by Cherokee Representative, ~~J.W.Hastings~~:

Q Where were you married? A We married in slavery time; we married in the Choctaw Nation.
Q Your husband came back with you also? A Yes sir.
Q I thought you said your father brought you back? A Well my father was the leading one brought us back.
Q Where was your sister married? A She was married here under the Cherokee law.
Q She wasn't married down there? A No sir.
Q Her husband didn't come back with her? A No sir.
Q Where was Robert Barnes born? A Down in Sequoyah.
Q On what place? A Right there on the Cale Starr place.
Q That's how far from Ft. Smith? A About four miles.
Q And by the river, on this side? A Yes sir.
Q You say Cale Starr was living there at the time? A No sir, old man Ellis Harlin was living there.
Q He had a family? A Yes sir.

Q One of them named Emma? A Yes sir.
Q She was living there? A Yes sir.
Q Another one named Ruth? A That's right.
Q She was living there at that time? A Yes sir.
And a boy named Oce.
Q And Oce was living there at that time? A Yes sir.
Q He knew your people now? A Yes sir.

Examined by Commissioner Brockinridge:

Q How many children have you? A I have got six.
Q Where was your oldest child born? A Born in Sequoyah.
Q After you got back after the war? A Yes sir.
Q How old is that child? A About 37 years old.
Q How long had you been married down in the Choctaw Nation when you got back? A We married time of the war.
Q Along towards the last of the war? A Yes sir.
Q How long had you been married when your oldest child was born?
A I couldn't go to work to tell you about that.
Q Been several years had it? A Yes sir.
Q How long had you been back here when your oldest child was born?
A She was born in '67.
Q How long had you been back here when she was born? A Well I say she was born in '67.
Q Who attended on you at the time of the birth of that child?
A The woman who attended on me is dead, Mandy Denton's mother.
Q Some of the old people living who remember when that child was born? A No sir, none that I know of; there wasn't no colored folks in there hardly then.
Q You don't remember how long you had been back in the Cherokee Nation when that child was born? A Yes sir.
Q How long? A She was born in '67.
Q I didn't ask you what year she was born in, I asked you how long you had been in the Cherokee Nation when that child was born?
A Well I tell you she was born the year after I come back here.
Q The next year after you got back? A Yes sir.
Q Was the child born in the spring, summer or fall? A Born in January.
Q And what time of the year was it you got here? A I got here in the fall of 1866.
Q In the fall before the January this child was born? A Yes sir.

COLLY ALBERT, being sworn and examined by Commissioner Brockinridge, testified as follows:

Q Give me your full name? A Colly Albert, is the way I always sign my name.
Q How old are you? A I am 61.
Q What is your post-office? A Melvin.
Q In what district do you live? A I live in Illinois District.
Q You want to give some testimony in the case of Robert Barnes do you, who has applied for enrollment? A Well, I can give some.
Q Well you are not here to apply for your own enrollment are you?
A No sir, not now, not at present.
Q Are you the husband of Martha Albert? A Yes sir.
(Com'r: Her case is D 42.)
Q Do you know Robert Barnes? A Yes sir.
Q How long have you been knowing him? A I have been knowing him ever since he was born.
Q How long have you lived in the Cherokee Nation? A I have been raised and born here in the Cherokee Nation.
Q Were you a slave in old times? A Yes sir.
Q To whom did you belong? A Old lady Bushyhead, Nancy.

Robert Barnes 5

Q Where were you during the war? A I was down on Red River.
Q In the Choctaw Nation? A Yes sir.
Q Where did you live before that, on Nancy Bushyhead's place?
A Yes sir.
Q In what district was that? A In Goingsnake District.
Q You married your wife, Martha, down there did you, on Red River?
A No sir, I married her after I come back; I lived with her but I didn't marry her until after we come back to the Cherokee Nation.
Q How long after you came back to the Cherokee Nation was it before you and she married? A About three years I guess; I joined the church an they wouldn't let me live in the church until I married.
Q Did you and she have any children until after you were married?
A Yes sir, she had two.
Q Two before you were married? A Yes sir.
Q That is, before you were married the way the church made you marry? A Yes sir.
Q You knew your wife's sister, Jennie? A Yes sir.
Q She was married to Sam Barnes was she? A Yes sir.
Q Did you come back with your wife after the war when she came from the Choctaw Nation? A I come a little ahead of her; a few days.
Q Just a few days? A Yes sir, she come with her father.
Q Did her sister Jennie come with her? A Yes sir.
Q She and your wife came together? A Yes sir.
Q Her sister Jennie was the mother of this Robert Barnes? A Yes sir.
Q What were you doing down there in the Choctaw Nation, farming?
A Yes sir, worked on the farm a while.
Q Well you were working on a farm all the time weren't you? A Well sometimes I was ~~knocking~~ driving a team.
Q Did you make a crop of cotton? A No sir, corn crop.
Q Where did you locate when you come back from the Choctaw Nation? A Near Cherokee Station there on Caleb Starr's place.
Q What time of the year was it you got back there? A It was along in August some time in August, I disremember just what day in August it was, but we got back there in August.
Q You think that was in what year? A 1866.
Q What fixes that on your mind? A Well I kept count of how long the war run; I knowed what year the war come in on.
Q How long had the war been closed when you came back? A I come back next spring after the war closed.
Q You fixed it on your mind that way? A Yes sir, that's the way it was.
Q You know this woman Jennie Barnes, mother of Robert Barnes, ~~xxx~~ whom did she belong to before the war? A I didn't know who she belonged to; I know who they always said she belonged to; she belonged to same man my wife did.
Q What was his name? A Johnson Waitmire; I never got personally acquainted with them until I got down there on Red River.
Q Was Jennie Barnes older or younger than your wife? A She was youngest, her mother and father said.
Q Was she married there in the Choctaw Nation? A No sir, I don't think she was until we come back to the Cherokee Nation I think.
Q Married after she got back? A Yes sir. As well as I recollect that's what they told me; I wasn't there when they married.
Q But you were seeing them all the time weren't you? A Yes sir.
Q Did you see her father soon after she was said to have been married? A She stayed there with us awhile on the Caleb Starr place.
Q Where were you when she married? A I was on the Caleb Starr place.
Q Where was she when she married? A She was over in Ft. Smith, I think, hired out.

Q And there is where she married Sam Barnes? A Yes sir, I think so
Q How long was ~~xxx~~ ~~they~~ after you ~~went~~ had got back from the Choctaw Nation? A It was about one year I think, not quite a year; it was about six months.
Q She staid with you awhile on the Starr place and then hired to do some work over at Ft. Smith and there married? A Yes sir.
Q And where did she lived after that? A Lived up on Lees Creek there close by me.
Q How long did she stay at Ft. Smith? A I don't know exactly; not very long though; I don't recollect now just how long it was.
Q How long had she been married before you saw her; how long was it after her married that you saw her? A It was about two or three months I guess.
Q You saw her two or three months after she was married? A Yes sir
Q Where did you see her? A She come over to my house there on a visit; on the Caleb Starr place.
Q What creek was that you say she lived on at one time? A Lee's Creek.
Q How long had she been married when she began living on Lee's Creek? A She had been married as well as I can recollect, then about four or five years.
Q And she had quit work in Ft. Smith then had she, and gone to live on Lee's Creek? A Yes sir.
Q What was her husband doing all that time? A Why he was farming he went to farming after he come over into the Cherokee Nation.
Q But during that four or five years before he lived on Lee's Creek, you don't know what he was doing do you? A Yes sir, he moved over there and was hired out.
Q Moved over where? A The other side of Ft. Smith in the coal banks.
Q He worked there until he moved up on Lee's Creek? A Yes sir.
Q Now Sam Barnes, her husband, he makes no claim for himself as a Cherokee Freedman? A No sir, none as I ever known of.
Q He was working for wages up there about the coal bank I suppose? A Yes sir.
Q And after working there four or five years he then moved up on Lee's Creek and went to farming? A Yes sir, he was living over here when he was working in the bank; he had moved before he went to work over there.
Q What was his wife doing all that time when he was working at the coal bank? A She was working in the field there with me and my folks; they lived about three or four hundred yards from me.
Q You said just now she had come from over there up to Lee's Creek? A She did after they were married.
Q You said she came up there four or five years after they were married, and now you say she had come before that and lived with you; which one of them can I rely on? A I said about five years he lived over here and went back to work the other side of Ft. Smith about five years after he was married.
Q He went back there about five years after he was married to work? A Yes sir.
Q Well then how long did he live over there after that? A After he had moved over here?
Q Yes.? A I don't know sir how long he worked; I couldn't tell exactly.
Q You now tell me that after he was married he came over here and worked four or five years and then went back and worked in Arkansas and worked on a coal bank? A Yes sir.
Q That's what you told me now is it? A Yes sir.
Q Well then how long did he work on a coal bank? A I couldn't tell you exactly how long he worked.
Q You told me awhile ago he worked four or five years on a coal bank? A No sir, I don't think I did; If I did I made a mistake.

Q How much was it you said, more or less? A It was less than that.
Q Whose coal bank was it? A It was called Jenny Lynn, over there about Huntington.
Q The town of Jenny Lynn? A Yes sir.
Q How long did he work over there about that coal bank off and on? A As well as I recollect it was about a year.
Q Not four or five years? A No sir.
Q Did he take his family along with him? A No sir, his family was over here living right by me.

Examined by Cherokee Representative, W.W.Hastings:

Q Who was living on the Cal Starr place at the time you were, immediately after you came back with your wife from the Choctaw Nation? A Ellis Harlin.
Q Did Ellis Harlin have some children living there? A He had two daughters.
Q What was their names? A Ruth and Emma.
Q They were living on the place at that time? A Yes sir.
Q Did he have any boys? A Yes sir, had one named Oce.
Q What was the other one's name? A I forget the other's name; he didn't come around there none, the other one didn't.
Q They were living there at that time? A Yes sir.
Q They were single and unmarried and living there on the place at the time with their father? A Yes sir.
Q All of these children that you have mentioned? A Yes sir, all but Oce; I don't know whether he was married or not; he just come in and out; I don't know what he was; the girls though were single.

Commissioner Breckinridge:

The applicant states that he had lived in the Cherokee Nation all his life; he is now thirty-three years of age, but he is not identified on the roll of 1880 nor upon the roll of 1896 nor upon the Kerns-Clifton roll; his mother is said to have died some ten years ago, and she is not identified on the roll of 1880; the testimony relating to his mother tending to establish that she came to the Cherokee Nation within the period required by the treaty of 1866, is of an indefinite character; a sister of the applicant's mother is on Cherokee Freedman doubtful card number 42; and the testimony of the husband of that sister, Colly Albert, is conflicting in its character; while this application is not established in any satisfactory manner, yet at present it will be placed upon a doubtful card for the further consideration of the evidence, and the final decision of the Commission willbe made known to the applicant at his post-office address.

---oooOooo---

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D.Green

Subscribed and sworn to before me this April 28,1901.

[illegible]
Commissioner.

To be filed in case of Robert Barnes D 99.

Department of the Interior.
Commission to the Five Civilized Tribes
Ft. Gibson, I. T., April 18, 1901.

In the matter of the application of Martha Albert for enrollment as a Cherokee Freedman; she being sworn and examined by Commissioner Breckinridge, testified as follows.
Supplemental testimony - D 42.

Q Give me your full name. A Martha Albert.
Q How old are you? A I don't exactly know; I hold myself for about 57 years old.
Q What is your postoffice? A Melvin.
Q In what district do you live? A I live in Tahlequah District.
Q Do you want to be enrolled,as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they all under 21 years of age? A No sir, they are all married but two.
Q Then you want to enroll those two? A Yes sir.
Q Have youe husband? A Yes sir.
Q Do you want to apply for his enrollment also? A No sir.
Q How long have you lived in the Cherokee Nation? A Been living here - I was born and raised here.
Q Lived here all your life? A Yes sir.
Q Have you applied before? A Yes sir, I didn't put my children on; I wasn't satisfied## the way I went in for.
Q So you want to apply again? A Yes sir.
Q Why didn't you apply for your children when you applied before for yourself? A The witnesses couldn't stay.
Q You didn't have you evidence in good shape? A No sir.
Q I have here your enrollment card and it appears that you did apply for two children, one Elijah and one, Ida? A Yes sir.
Q Are those the names of your children? A Yes sir.
Q What you want to give now is somw additional testimony? A Yes sir.
Q What witnesses do you want to introduce now? A Henry Brown a nd Andrew Crossland.

Henry Brown, being sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give me your full name. A Henry Brown.
Q How old are you? A I am suppose to be about 44 years old.
Q What is your postoffice? A Vian.
Q In what district do you live? A Illinois.
Q How long have you lived in the Cherokee Nation? A I lived here all my life, only the time of the war.
Q You were out during the war, were you? A Yes sir.
Q Where did you go? A Chickasaw Nation.
Q You lived in the Cherokee Nation before the war? A Yes sir.
Q Well you were quite a child during the war? A I was about 12 or 13 years old during the time of the war; maybe 16; I don't know my age exactly.
Q What time did you come back to the Cherokee Nation, the time during the war? A They said it was in the fall of '65.
Q You came from the Chickasaw Nation? A Choctaw rather.
Q Then you never were out of the Indian Territory during the war? A No sir.
Q Do you know an applicant here, Martha Albert? A She used to go by the name of Whitmire.
Q Is she known as Albert now? A Yes sir, by her husband now.
Q Did she belong to a man named Whitmire before the war? A That's what they claim they belonged to Whitmire.
Q Were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Brown.
Q What was Whitmire's full name, do you remember? A I don't know his full name.
Q Johnson Whitmire? A I heard that name, yes sir, I heard him

called by that name.
Q Well, now, in those days did you live near Whitmire's place? A No sir, I lived at that time in Canadian District.
Q How far from Whitmire's place? A That's - I don't know how many miles. They claimed before the war something like forty miles; I don't know.
Q You came back to the Cherokee Nation when? A In the fall of '65.
Q When did you first see Martha Albert, as she is called now, after you came back? A It was in '66 as near as I can remember; I saw her at old Jack Campbell's church house.
Q You can't be certain what year it was? A No sir, but I think it was in '66.
Q Have you known her pretty well ever since that time? A I have been seeing her off and on; I lived in Illinois and they used to live in Sequoyah.
Q Has she been living in the Cherokee Nation ever since you saw her then? A That is where I have been seeing her.
Q About how often would you see her, once a year or once every five or ten years? A I couldn't say how often; it wasn't often.
Q But you have seen her some since? A Yes sir, some since I come back after the war.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q Did you ever see this woman beforethe war? A No sir, never seen her before the war.
Q You never knew her then? A No sir.
Q The first time you ever saw her was after the war? A Yes sir.
Q And you never heard her personal name? A No sir.
Q You don't know that this woman was among them, the Whitmires? A No sir, I don't know.
Q I mean among them after the war when you saw her? A I only knew that they were Whitmire's darkies.
Q Did you know her personally? A No sir.
Q Did you know her after the war? A Yes sir, I saw her at this church.
Q The first time you saw the Waitmire darkies, you don't remember this woman personally except seeing her in the crowd? A I saw her with the Whitmire darkies.
Q Were they at the Church house there at thattime? A Yes sir.
Q Colored Church? A Yes sir.
Q Do you remember that this woman herself, individually, was among them? A No, only that they said they were Whitmires.
Q You don't remember this woman personally except the Whitmires generally, that were there? A They said they was the Whitmire darkies.
Q Did you see this particular individual colored woman at that time in '66? A As near as I said it was '66, that was the day I saw her at the church as a Whitmire.
Q Did you see this particular woman? A Yes sir.
Q Do you think you saw her in '66? A As near as I can come at it.
Q You are not positive? A I am satisfied that it was '66.
Q What makes you fix that date? A Because I think it must have been near that time. It was the time I moved on Canadian . I was living there.
Q You were living in Canadian then? A Yes sir.
Q What were you doing down there? A I was in the Court at Fort Smith.
Q Who was preaching there? A I didn't go there; I just happened to be around there and Harry Foreman.
Q You don't know who preached? A No sir.
Q You didn't know this woman before? A No sir.
Q Why was it that this woman among a whole crowd of darkies was pointed out to you and why do you remember? A Because I heard it was the Whitmire darkies.
Q There was a number of them? A She was a particular one he said was a Whitmire darkey.

Q What makes you remember that? A Because he said so.
Q Was she married then? A I don't know whether she was or not.
Q You don't remember of seeing her husband then? A No sir, I don't.
Q Where was that church? A Jack Town, this side of the river.
Q How far from the Payne place? A Six or seven miles this way from the river.
Q By Cherokee Junction? A Yes sir.
Q You don't know who she come back with? A No sir.
Q You don't know how long she's been back? A No sir.
Q What time of the year was it you saw her? A As near as I can say it was '66.
Q Spring, summer or fall? A Along in August of '66.

Commissioner-
Q You were a stranger down there in that neighborhood? A No, not exactly I knowed some of the people down there.
Q How far did you live from there? A 45 or 6 miles.
Q Had you ever lived in that neighborhood? A I used to stay there a while after the war by Dr. Campbell place.
Q Did you visit or live there? A When I come there, I came from Fort Smith and stopped at Campbell's.
Q How long did you stay there? A Several months.
Q Were you acquainted with many of the Whitmire darkies as you call them? A No more than just heard them as Whitmires when I was at the church.
Q And there were a lot of them there and they said they were Whitmire people? A Yes sir.
Q There seemed to be a lot of them? A This woman said she was a Whitmire and Charley Whitmire; they called them the Whitmire Darkies.
Q How long after that was it before you seen this woman again? A I couldn't say how long it was afterwards; it was some times afterwards.
Q Some years? A No years.
Q When were you down there again? A Several times after that.
Q You have been down there several times since that time you were at the church and the present day? A Yes sir, several times.
Q Well, about how long after being at the church before you went there again? A It must have been; I couldn't say, I stopped by Jacktown and would be on this side of the river. I can't say.
Q Were there a number of these Whitmire colored people down there? A They were acknowledged to be Whitmire pagans. They claim to be several of them; the ones I speal of is the one I saw that Sunday.
Q Were there quite a number of them? A They claim there was a good number of them.
Q Youns aw a good many who were claimed to be Whitmire people? A Yes sir, Whitmire darkies.
Q What impressed this woman on your mind? A Harry Foreman pointed her out to me as a Whitmie.
Q You weren't acquainted with her? A No sir, only saw her that Sunday.
Q He pointed her out and others as belonging to the Whitmire crowd? A Yes sir.
Q Do you think that made enough impression on your mind passing there to remember her during all this time, you living forty miles away? A I saw her since then; that wasn't the only time I saw her.
Q You can't say for certain what year it was you were down there? A No sir, as near as I can remember, I claim it must have been '66 .
Q And this is as far as you can go? A Yes sir, in being honest.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q I believe you stated that you attended Court at Fort Smith? A Yes sir.
Q What trial? A Brother Green.

4— M. A.

Q Was he tried at Fort Smith that year? A Yes sir.

Commissioner-
Q That is the year you claim you saw the woman at this church? A Yes sir.
Q Remember we are talking about the year you saw the Whitmire people? A I think it was in 1866.
Q I am not asking you about that, we are trying to locate what business you had in the Court at Fort Smith in the year that you were at the Church - what business took you to Fort Smith that particular year? A I couldn't say what year.
Q I never asked you about the year, I asked you about the business? A As a witness.
Q In what case? A Green Lowry.

Examination by W. W. Hastings-
Q What Judge tried that case? A Judge Parker.
Q At Fort Smith? A Yes sir.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. B. Wheelwright

Subscribed and sworn to before me this 26th day of April, 1901.

Commissioner.

To be filed in case of Robert Barnes, Cherokee Freedman, D 99.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 20,1901.

In the matter of the application of Martha Albert for the enrollment of herself, and two children as Cherokee Freedmen; being sworn and examined by Commissioner Needles, she testified as follows:

Q What is your name? A Martha Albert.
Q How old are you? A About 54 or 5 years old.
Q What is your post-office address? A Melvin.
Q What district do you live in? A I live in Tahlequah District now; but I have been living in Sequoyah.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Did you ever apply to be enrolled as a Freedman of any other tribe or nation? A No sir.
Q Have you been recognized by the Cherokee authorities as a Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A I have got two children.
Q What are the names of your children? A Elijah Albert, 19 years old. Ida Albert 10 years old.
Q Are you married? A Yes sir.
Q What is your husband's name? A Holly Albert.
Q Is he a citizen? A Well, he has been raised by them.
Q Is he living? A Yes sir.
Q Where is he? A He is down town.
Q Were you a slave? A Yes sir.
Q What was your owner's name? A Johnson Whitmire.
Q Where were you at the beginning of the war between the Confederacy and the United States? A Goingsnake.
Q Were you taken out of the nation during the war? A Far as Red River.
Q This side or the other side of Red River? A This side.
Q When did you come back? A In '66.
Q You have been living down here ever since '66? A Yes sir.
Q What was your name before you were married? A I went by my owner's name, Martha Whitmire; I always goes by the name of Mat now.
Q Your name though is Martha? A Yes sir.
Q Have you ever lived in Cooweescoowee District? A No sir.
Q What is the reason your name aint on the roll of 1880? A I don't know; you know how ignorant people was, didn't know how to go at such business.
Q You say you were a slave of Johnson Whitmire? A Yes sir.
Q And that you came back to the Cherokee Nation in '66? A Yes sir,
Q You sure it was '66? A Yes sir.
Q You think it wasn't '76? A No sir, '66.
Q You wasn't here in '65? A No sir.

Examined by Cherokee Representative, James Davenport:

Q Who did you come back to the Cherokee Nation with when you came back? A With Ellis Harlin.
Q Where did you go first when you came back? A I stopped right down on ~~the Emmx~~ the Cale Starr place where the Chero ee Junction is now.
Q Stopped on the Arkansas side didn't you? A No sir, I didn't.
Q How long did you live in Ft. Smith? A Never lived in Ft. Smith any.
Q How long did you stay there? A I stayed there 3 years, and then went to Lee's Creek.

Q Who did you live with there? A Cherokee family there, named Allison, and Mrs. Franklin and all of them.
Q Where was Hickory Starr living at that time? A In Flint
Q You didn't go up to Flint? A No sir.
Q Well, did you go to Goingsnake District? A No sir.
Q You just went to Sequoyah District and remained there? A Yes sir.

Examined by Commissioner Needles:

Q Have you got anybody here that knows you and knows you were here in '66? A Yes sir, Mandy Benton and John Melton.

JOHN MELTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A John Melton.
Q How old are you? A 64
Q What is your post-office address? A Benge.
Q Are you a Cherokee Freedman? A Yes sir.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q You know Mattie Albert? A Yes sir.
Q Was she a slave during the war or before the war? A I don't know.
Q When did you first know her? A About '67, early in '67; I saw her husband in '66 sometime, and had a talk with him; he said he found her at the Harlin Place; I often heard talk of them being down there, but I never see them for a few months after.
Q When did you first see her? A Early in '67.
Q Easly as January? A No sir.
Q Some time in the spring? A Yes sir, along in the spring.

Examined by Cherokee Representative, James Davenport:

Q You don't remember what time in '67 you saw her? A No sir, not exactly.
Q You don't know where they were during the war? A No sir.

MANDY BENTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? AMandy Benton.
Q How old are you? Mandy? A About 70.
Q What is your post-office? A Benge.
Q You are a Cherokee Freedman are you? A Yes sir.
Q You know Mattie Albert? A I have been knowing her ever since the surrender.
Q You know where she was at the close of the war between the Confederacy and the United States? A No sir, I don't think I do.
Q Where did you first get acquainted with her? A On the Harlin place.
Q What year was that? A '66.
Q Was she there in '66? A Yes sir.
Q You know whether she had been a slave or not ? A Yes sir, she was a slave.
Q You know who her owner was? A Whitmire.

Examined by Cherokee Representative, James Davenport:

Q What makes you remember that it was in '66 when you first got acquainted with her? A Well, just by paying attention to others talking I reckon, and knowing it was that time.
Q How long after the surrender was it you got acquainted with her?
A Well, really I don't know.

Q Was it two years or three years? A It might have been a year and maybe not so long; I don't remember.
Q Where was she living when you got acquainted with her? A At the Harlin place.
Q Where is the Harlin place, I don't know Mandy? A It is in Sequoyah.
Q With whom was she living at that time? A With her husband and her children.
Q How many children had she? AI don't know how many children she had.
Q How far were you living from where she was living at that time? A I guess it's about very near two miles.
Q You remember any of the Cherokee families living in that locality where she was living? A No.
Q You don't remember anything about it except it was in '66 you got acquainted with her? A Emma Harlin was living there then I think, if I mistake not.
Q Was Cale Starr living there? A I don't know- I remember--
Q You know Cale Starr? A Yes sir. I would like to get it straight; I tell you I have had so much trouble since that time I don't remember.
Q You don't know whether it was '66 or '76? A It was '66.

Examined by Cherokee Representative, W.W.Hastings:

Q It was before the treaty was it aunty that you got acquainted with her? A I guess it was.
Q Now, aunty, you don't know anything about years do you? A I forget them.
Q You didn't know anything about years then did you? A Oh I guess I was here; I know a little something about it.
Q What year is this? A Now I disremember.

Examined by Commissioner Needles:

Q You are pretty positive though that you saw this woman in '66 A I sure is.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not identified thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
page 159 #3936 ~~xxxxx~~ Mattie Albert Sequoyah District;
page 159 #3936 Elijah Albert, Sequoyah District;
page 159 #3937 Ida Albert, Sequoyah District.

Q Have these children always lived in the Cherokee Nation? A Born,and raised here.

Com'r Needles: The name of Mattie Albert and her children Elijah and Ida are found upon the Kerns-Clifton roll; their names do not appear upon the authenticated roll of 1880 nor the census roll of 1896, they are duly identified now comes the Cherokee Nation, and protests against their enrollment consequently, final judgment will be suspended as to the enrollment of said Mattie and her children and their names will be placed upon a doubtful card.

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M.D.Green,being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this April 21,1901.

Commissioner.

D

1899

DEPARTMENT OF [illegible]
[illegible] TO THE FIVE CIVILIZED TRIBES.

FILED
APR 24 1901

ACTING CHAIRMAN.

To be filed in case of Robert Barnes, Cherokee Freedman, D 29.

SUPPLEMENTAL: D 42.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Martha Albert et al for enrollment as Cherokee Freedmen;
Albert Johnson, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Albert Johnson.
Q How old are you? A I am 43
Q What is your post-office? A Benge.
Q In what district do you live? A Sequoyah.
Q You want to give some testimony in the case of Martha Albert and her children? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life, with the exception of going out into the Choctaw Nation during the war.
Q At what time did you come back to the Cherokee Nation? A '65.
Q And have you lived here ever since? A Yes sir; I have been right in the Territory ever since.
Q Do you know Martha Albert? A Well, yes sir, I do to some extent.
Q How far does she live from you? A She lived right by us.
Q At one time? A Yes sir.
Q When was that? A Oh that has been I reckon about 24 or 5 years ago since she lived right by us, I guess; I wont say that for certain.
Q What was her name in that day? A Well she went by Mattie Albert.
Q Do you know what her name was before it was Albert? A No sir,
Q Where did she live before that time, 24 or 5 years ago, when you and she lived close together? A I am going to tell you just like I know; I aint going to tell nothing more than that; they said she lived up on Lee's Creek; I don't know that.
Q You have no knowledge of your own? A No sir, not as to where abouts she was living at all.
Q So of your own knowledge, except for hearsay, you don't know anything more than 24 or 5 years ago, is that so? A Yes sir.
Q Your first personal acquaintance with her was 24 or 25 years ago, as near as you can place it now? A Yes sir.
Q How old were ye when you first knew her? A I guess I must have been about 17 or 18 years old; I guess I was, I don't know exactly.
Q You were most a young man? A Yes sir.

Examined by Cherokee Representative, W.W.Hastings:

Q How far, Albert, did you live from Lee's Creek? A I lived 10 miles from Lee's Creek.
Q Yet you never saw her before that time? A No sir.

ANDY CROSSLAND, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Andy Crossland.
Q How old are you? A About 74.
Q What is your post-office? A McKee.
Q In what district do you live? A Illinois District.
Q You want to give testimony in the case of Martha Albert, and children? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been here all the time, born here.
Q Were you in the Cherokee Nation during the Civil War? A Yessir

Martha Albert et al sup 2

Q All the time during the war? A Yes sir, I was a soldier.
Q When did you begin soldiering? A I can't tell you; I was a soldier.
Q What command were you in? A Cherokee.
Q In the Union Army? A Home Guard.
Q Were you Home Guard on the Union side or the Confederate side?
Q Confederate side.
Q Well, then, you quit soldiering of course when the war closed?
A Yes sir.
Q Did you surrender? A Yes sir.
Q Where did you surrender? A Right here at Ft. Gibson.
Q When did you first know Martha Albert? A After the war.
Q Where did you live before the war? A Down in Sequoyah District.
Q Were you a slave in those days? A Yes sir.
Q To whom did you belong, did you belong to a man named Crossland?
A Yes, his wife.
Q What was her husband's name? A John.
Q You were paroled right here at Ft. Gibson? A Yes sir.
Q Where did John Crossland and his wife live? A In Sequoyah District.
Q Near what town? A Close to Redland.
Q Who did Martha Albert belong to in old times; she was a slave in old times was she? A I couldn't tell you.
Q You don't know about that? A No sir.
Q You don't know then, of course, where she lived back before the war? A He used to live there in Flint.
Q Who are you talking about? A Martha.
Q You said he, you mean Martha Albert? A Yes sir.
Q You say she must have lived in Flint, but you don't know?
A No.
Q When did you first see her, A Close to Ft. Smith on Cale Starr's place; had a place close to Stone wall, and I was going down towards Van Buren and I staid all night with her.
Q How did you happen to see her? A I staid all night with her.
Q Staid all night there? A Yes sir.
Q She was living on the plantation? A Yes sir, on Cale Starr's place.
Q She was a married woman then? A Yes sir.
Q You stopped at their house? A Yes sir.
Q What were you going down to Van Buren for? A Taking some cattle.
Q You had gone to work? A Yes sir.
Q How long had you been living up here before you started that trip? A I had been living all the time.
Q But after you were paroled and the war was over, you went to work? A Yes, well I stopped down at Sand Town after peace was made.
Q You were in the Home Guard? A Yes sir.
Q And after the war was over you were paroled? A Yes sir.
Q And then you went to work? A Yes sir.
Q Who did you go to work for? A Just some times hired in a job of cattle, to Van Buren.
Q How long had you been working after the war before you went down to Van Buren after the war with that lot of cattle? A Three or four years.
Q Three or four years then, after the war was over, and you had been paroled, you went down to Van Buren with a lot of cattle'
A Yes sir.
Q And on that trip you stopped at this woman's house and staid all night with her family? A Yes sir.
Q And at that time you got acquainted with her? A Yes sir.
Q That's the first time you ever saw her? A Yes sir.
Q And you have no knowledge of her before that time? A Yes sir.
Q Well you never knew her before that time? A No sir.

Q Have you been knowing her off and on ever since? A Ever since.
Q So you don't know where she was before you met her at that time? A No sir.

ROSE ROGERS, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Rose Rogers.
Q How old are you? A I pronounce my age 56 years of age.
Q What is your post-office? A Locust Grove.
Q In what district do you live? A Saline.
Q You want to give some testimony in the case of Martha Albert and her children? A Just of her owners and where she lived.
Q How long have you lived in the Cherokee Nation? A I have been bred and born in Goingsnake District, I have been nowhere else.
Q Lived here all your life? A Yes sir, until I went south with my owners time of the war.
Q Where did you go? A Down in the Choctaw Nation.
Q You remember the first year when you went to the Choctaw Nation? A Yes sir, just when the war broke out we went to the Chocta Nation.
Q And you came back when the war was over? A Yes sir.
Q Who did you belong to in these days? A Cornelius Wright.
Q Who was it Martha Albert belonged to? A She belonged to Johnson Whitmire; her mother did.
Q Did she belong to johnson Whitmire herself? A Yes sir, she belonged to johnson Whitmire; her mother and her mother's children; I was about 11 years old.
Q How far did Johnson Whitmire live from Cornelius Wright? A Five miles, on the mouth of Barren Fork, close to Pea Vine Creek.
Q You know where Martha Albert was during the war? A No sir, I don't.
Q What do you know about her after the war? A I haven't seen her since the war uhtil I met her here on Fourteen Mile Creek.
Q When was that A Just last year; I saw her since she was a little girl.
Q So you haven't seen her since you went down to the Choctaw Nation during the war until you met her out here on the Creek last year? A Yes sir.
Q And that's all you know about her? A Yes sir. I knew where she wad bred and born on Barron Fork; she lived with Johnson Whitmire; there was two brothers then, George Whitmire and Johnson Whitmire.
Q Did you see her during the war? A No sir.
Q You don't know where she was taken? A No sir, but her people went south; they was in behind, so we went ahead of them; they located somewhere in the Choctaw Nation, but I couldn't say where.
Q You don't know about that? A No sir.
Q Did you know her in that day, before the war? A Yes sir, we were children together; just lived five miles apart; I just wanted to identify her mother, who they belonged to; and they were not sold out; I am qualified; I want to state what I know.
Q You know she was born in the Cherokee nation and went out during the war? A Yes sir.
Q And beyond that you don't know anything except when you met her about a year ago? A Yes sir. We was raised together; gathered hazel nuts together.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this April 24 1902.

Commissioner.

Indian Territory

Cherokee Nation

I, A. S. McRae do hereby certify that I am the duly appointed attorney for the within named applicant and as such attorney do hereby accept service of the within notice to take testimony before the United States Commission to the Five Civilized Tribes. Given under my hand this May 24th 1901.

A. S. McRae

Attorney for Applicants

DEPARTMENT OF THE INTERIOR, COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
15 1901
ACTING CHAIRMAN

F. D. 99

# NOTICE!

In the matter of the application of Robert Barnes for enrollment as a Cherokee Freedman.

Case No. D 99

To Robert Barnes

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on the following dates, to-wit: May 21 & 22nd A. D. 1901, during the usual business hours of said Commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 13 day of April 1901.

Bell Hastings & Davenport

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

on the ..... day of ..... A. D. 1901.

Subscribed and sworn to before me this ..... day of ..... 1901.

..... Notary Public.

H. F. D. 99.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
AUG 22 1901

ACTING CHAIRMAN.

To be filed with case of Robert Barnes, C. T.D.#99.

# S U P P L E M E N T A L  T E S T I M O N Y.

T.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 21st, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen:

RUTH HUNT, being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
A. S. McRea, Attorney for Applicants;
W. W. Hastings, Cherokee Representative.

Q What is your name? A Ruth Hunt.
Q How old are you? A 54.
Q What is your post office address? A Vinita.
By W. W. Hastings: Mrs. Hunt, what was your maiden name?
A Harlin.
Q What was your father's name? A Ellis Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Where did you go during the war of the Rebellion?
A Fort Smith, Arkansas.
Q After the war did you return to the Cherokee Nation? A Yes, sir.
Q When did you return to the Cherokee Nation? A 1867.
Q What time of the year? A It was either February or March, I don't remember which.
Q But '67? A Yes, sir.
Q Did any colored people return with you to the Cherokee Nation when you came back? A No, sir.
Q Did you return with your father? A Yes, sir.
Q To what point did you return? A About four miles this side of Fort Smith, on the line of Arkansas, about a quarter of a mile from the line, Arkansas line.
Q Did you know a colored woman by the name of Martha Albert who is the wife of Colly Albert? A There was a man worked for us we always called him Albert, I don't know what his other name was, his wife was named Martha; he worked for us that summer we came back.
Q The summer of '67? A Yes, sir.
Q Did they return with you? A No, sir.
Q Were they ever there on the place when you returned? A No, sir.
Q Do you know where they came from? A No, sir, I don't but he went over in Arkansas somewhere and hired the man to come and work, but I don't remember where he got him. He had a man at work for us and the man quit and he went away somewhere and got this man, he got him in Arkansas somewhere towards Van Buren, but I don't know.
Q You brought no colored people back with you? A No, sir.
Q Did these people claim at that time to be Cherokee Freedmen?
A I never heard it if they did I don't remember anything about them claiming.
Q Do you know what became of them after they left your place?
A No, sir. I never seen or heard tell of them until they was taking the roll at Vinita here before.
Q In 1896? A Yes, sir, that is the only time I have ever heard of them since.
Q Are you a Cherokee citizen by blood? A Yes, sir.
Q You reside at Vinita? A Yes, sir.

CROSS EXAMINATION BY A. S. McREA:

Q Mrs. Hunt, did you know the applicant, Mattie Albert, before the war? A No, sir.
Q Do you know her at all? A I don't know her only just as far back as 1867; I remember there was a man worked for us by the name of Albert, we called the woman Martha and the man Albert, they worked for us here during the summer of 1867, that is all I know about it.
Q You don't know whether she is the one who belonged to Johnson Whitmire before the war or not? A No, sir, I don't know; I never heard her say that she belonged in the Nation before the war.
Q Did you know the Whitmires? A Yes, sir.
Q Did you know any of their slaves? A I can't remember them, I knew them but I can't remember them.
Q Now, this man Albert that worked for your father, you don't know his given name? A No, sir, we just called him Albert, and I don't remember what his other name was.
Q You don't know whether Albert was a given or surname? A No, sir; I don't know which it was.
Q Would you know the same persons if you would see them again? A I don't think I would, it has been so long.

RE-DIRECT EXAMINATION by Mr. Hastings:

Q How far did you live from Johnson Whitmire before the war? A About ten or 12 miles. I knew the family and I guess knew the slaves, I don't remember them now.
Q I believe you said you were 54, that would make you be born in 1847; you would be about 13 years old when the war come up? A Yes, sir.
Q I was going to ask you if you lived in ten or twelve miles of Johnson Whitmire and if this woman had belonged to him before the war, it is quite likely you would have known that in 1867? A It seems that she would have known people that I did and would have said something about it. I went to school with Whitmire's children and have been at Ben Whitmire's house and I guess would remember some of the names if I heard them recalled, but I can't remember them now.
Q You didn't recognize this woman? A No, sir, I would not recognize her now.
Q You didn't recognize her then as belonging to Johnson Whitmire? A No, sir.
Q Never heard her remark about it? A No, sir.

EMMA FINLEY, being duly sworn by Commissioner T. B. Needles, testified as follows:
DIRECT EXAMINATION BY MR. HASTINGS:

Q What is your name? A Emma Finley.
Q What is your age, Mrs. Finley? A 61.
Q What is your post office address? A Tahlequah.
Q Are you a Cherokee by blood? A Yes, sir.
Q Recognized citizen of the Cherokee Nation? A Yes, sir.
Q Mrs. Finley, what was your maiden name? A Emma Harlin.
Q You are a sister of Mrs. Hunt who has just testified? A Yes, sir.
Q What was your father's name? A Ellis Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Did you come back with your father after the war to the Cherokee Nation? A Yes, sir.
Q When did your father die? A '67.
Q Where did he die? A Down in Sequoyah district, near Fort Smith.

Q To what point in the Cherokee Nation did you return after the war? A Down on the line close to Fort Smith.
Q About how far from Fort Smith? A Four miles.
Q I ask you if any colored people returned with you? A No, sir.
Q What time did you return to the Cherokee Nation? A In '67.
Q What time in '67? A I am not positive what month it was, it was either February or first of March, I think.
Q Did any colored people return with you? A No, sir, there was not.
Q Do you remember a colored woman by the name of Albert, Martha Albert? A Why, yes, I remember her, she didn't come back with us.
Q She didn't come back with you? A No, sir.
Q When do you first remember of having seen her? A I think it was the last of March or first of April, I am not positive which, but it was along about that time .
Q It was after your returned to the Cherokee nation after the war?
A Yes, sir, after we come back in '67.
Q Do you know where she came from? A In the State some place.
Q She worked foryou that season, pr part of the time? A Part of the time.
Q She didn't come back with your or your father? A No, sir.
Q Do you know whether she claimed at that time that she was a Cherokee slave? A No, sir, she didn't; if she did I never heard her. Never claimed at all.
Q Mrs. Finley, did you know Johnson Whitmire before the war?
A No, sir, I had heard of him but I was not acquainted with him.
Q You were young? A Yes, sir.

CROSS EXAMINATION BY A. S. McREA:

Q Mrs. Finley, where did you all go to before the war, did you leave the Nation? A Before.
Q Yes? A No. I left the Nation after the war began.
Q Left during the war? A Yes.
Q Where did you go to? A Fort Smith.
Q Did you know Martha Albert at that time? A When I left the Nation?
Q Yes? A No.
Q Where was the first time you ever seen Martha Albert? A In '67.
Q Where at? A In Sequoyah district.
Q At what time of the year was it? A It was in the last of March or first of April, I am not sure which.
Q In 1867? A Yes, in '67.
Q Do you know whether she had ever lived in the Nation?
A No, I don't.
Q Did her husband work for you all? A Yes, in '67.
Q What was his name? A Colly. that is all the name I ever heard.
Q Just knew him as Colly? A Yes, that is all we called him.
Q Do you know whether or not they were slaves? A No, I don't know.
Q And you saw they came here from the State of Arkansas to work for your father in 1867? A Yes..
Q You don't know whetheror not of your own knowledge they had been in the Territory prior to that or not? A No, I only know that he went over in the State and got them.
Q What were they doing in the State? A I don't know.
Q Don't know whether they were living there or not?
A I suppose they were living there; went there and got them.
Q Isn't it possible that they could have been over there at work?
A It is possible, it is not impossible, of course, they had every thing they had over there.
Q [illegible]

Q Had all their possession in the State of Arkansas? A Yes.
Q Did they move those possession over to your father's place when they come there? A Yes.
Q What possessions did they have? A They didn't have much, just what they had in the house and one horse.
Q You don't know whether they left the Territory or not?
A No.
Q And you don't know whether they come back in 1866 or not? A No.
Q And the first you knew about them was when they worked on your father's place in 1867? A Yes.

HARRY STILL, called as a witness on the part of Applicants being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Harry Still.
Q What is your post office? A Hayden.
Q What is your age? A Well, sir, I don't know exactly, something over 50.
Q You are a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A No, sir.
Q You are a contested citizen? A No, sir.

DIRECT EXAMINATION BY A. S. McREA:

Q Mr. Still, you are called on to give some evidence in the case of Martha Albert; are you acquainted with Martha Albert? A No, sir, I am not.
Q Did you know Johnson Whitmire? A Yes, sir, I knew Johnson Whitmire.
Q Did you know any of his slaves? A Yes, sir, I knowed his slaves, I knowed 'em all, he was a brother of my Master.
Q Did you know this woman Martha? A Martha Whitmire? I didn't know any Martha Whitmire.
Q Did you know Colly Albert? A I know Colly Albert when I see him.
Q Did you know him before the war? A No, sir, I didn't.
Q Did I understand you to first say that you knew Martha Albert, or that you did not know her? A I do not know her; I knew Johnson Whitmire's slaves, but I did not know her.
Q Do you know Eliza McCrady? A No, sir.

CROSS EXAMINATION BY MR. HASTINGS:

Q Where did you live before the war? A Lived on Barren Fork at George Whitmire's place.
Q What kin was George Whitmire to Johnson? A Brother.
Q How far did they live apart? A It must have been four or five miles.
Q Are you well acquainted with Johnson Whitmire? A Yes, sir.
Q Are you well acquainted with Johnson Whitmire's slaves?
A Yes, sir.
Q Did you know him to have a slave by the name of Martha?
A No, sir, I didn't know one by that name.
Q Didn't know one by that name? A No, sir.
Q You lived there in four or five miles? A Yes, sir.
Q If he had one you would have known it? A Johnson had a good many colored people; I knew most of them, I knew all of them, all he owned.
Q This woman claims now to be about 54 or 55 years of age, which would have made her 15 or 16 years old when the war came on; you didn't know any Martha Whitmire that was something of that age that belonged to Johnson Whitmire? A No, sir.

Q How old are you, Harry? A I am something over 50 years old, about 54 as near as I can get at it.

RE-DIRECT EXAMINATION BY A. S. McREA:

Q Did Johnson Whitmire own a slave by the name of Charles Whitmire, or Charles Bolen? A If he did I didn't know, he may, I have heard of Charles Bolen, but I don't know who he is.
Q Well, did he own a slave, family slave, by the name of Nancy?
A Not as I know of, sir.
Q Now, as I understand you to say, Mr. Still, you didn't know all the slaves of Johnson Whitmire? A Yes, sir; I was acquainted with 'em, they was kin to me.
Q You were kin to all them? A Yes, sir, kin by blood and I know them.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this August 19th, 1901.

Commissioner.

File with Cherokee Freedman, D- 99, Robert Barnes.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Testimony on behalf of Cherokee Nation.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

WATT WHITMIRE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Watt Whitmire.
Q What is your postoffice? A Westville.
Q How old are you? A 48.
Q What is your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte Whitmire.
Q In what district did your father live before the war?
A Going Snake.
Q Was there any other Johnson Whitmire in Going Snake at that time, that was grown, an old man with a family? A No, sir, not as I know of; there was a Johnson, a son; he is younger than I am.
Q Well, he was born about the time or after the war came on, or when; about how old is he? A He is some thirty odd, some 37 or 8.
Q Did your father own some slaves when the war broke out? A Yes, sir.
Q Do you know whether or not your father or your mother owned a slave by the name of Martha when the war broke out? A No, sir, not as I know of; none by that name.
Q Did your father or mother own a slave by the name of Nancy, a woman? A No, sir, not as I know of.
Q This Martha, according to her statement, would be some 14 or 15 years of age at that time? A No, sir, I don't recollect hary one by that name.
Q You are Johnson Whitmire's son? A Yes, sir.
Q You were living at home at the time the war broke out? A Yes, sir.
By A. S. McRea: Mr. Whitmire, how many slaves did your father own?
A I don't know the exact number.
Q Were you acquainted with the names of all the slaves of your father? A Why I believe I recollect the oldest, I don't know that I recollect the smallest children's names, of all.
Q About what was approximately the number of old slaves? A Well, I will have to count them up.
Q Well, give an approximate statement? A About 12 or 14 or somewhere along there; I don't know just exactly.
Q Did he own a slave by the name of Nancy? A Not as I recollect of; I don't recollect any such name.
Q About how old were you at the breaking out of the war? A I was born in '52; I believe the war broke out in '62, wasn't it; about '61.
Q How were about 9 years old? A 9 or 10 years, somewhere along there.
Q How couldn't he have possibly owned this female girl and you not have any recollection of it? A I recollect all the names from my size up, but I don't recollect of any such name as Martha. There wasn't but two girls, and one was named Mary and one Nannie.
Q They were the only two female colored girls of the ages of 12 or 14 years old? A Well, they were younger than that. Nannie was younger than that and Mary was I reckon [illegible]

than me; I don't know exactly, but I just judge from her size.
Q Well now, do I understand you to say this number of fourteen or fifteen adults, or older slaves, did they have any children? A Oh yes, that included men and women together.
Q Included men and women together? A Yes, sir.
Q Did they have any children? A Yes, sir.
Q Do you remember the names of them all? A Well not of all, I remember the names of some of them.
Q About how many children did each family have? A Well, there was one woman by the name of Fronie had one child named Susie, and there was an old lady named Sukie had two or three, and I don't recollect the names of but one boy, his name was Joe, and this girl Nannie I spoke of was the child of old Aunt Sukie; and there was one by the name of Rachel, I don't recollect just how many children she had, but one or two or three, somewhere along there; they were quite small when the war broke out.
Q That is all the children? A No, sir, I don't recollect just how many children there were in the whole family of the darkies, but there was Rachel's children, and Aunt Sukie's children, and Fronie's child, one child, I believe isall I recollect of.
Q Well, where did your father's slaves go during the war? A Well I can't tell you exactly; my understanding is they went north.
Q That they all went north? A Yes, sir, part of the men folks left here before I left the old place, and when I left there I left part of the women folks at home, at the old home place.
Q Leave any of the children? A Yes, sir.
Q Have you any recollection what became of them? A No, sir.
Q Did you ever see any of them any more? A No, sir, never saw any more of them any more at all.
Q Did you go away yourself? A Yes, sir, taken away.
Q Where did you go? A Went from there to Cane Hill, Arkansas.
Q When did you return? A After Peace was made; went on from Cane Hill south.
Q Have you any acquaintance with this alleged party to this suit, Martha Albert; are you acquainted with her? A No, sir.
Q Don't know her? A Don't know her at all.
Q How long have you lived in the Cherokee Nation now since your return from Cane Hill; was that the place you went to? A Went from the Nation to Cane Hill and from Cane Hill went south in the Choctaw Nation.
Q Then when did you return from the Choctaw Nation to the Cherokee Nation? A Returned in '67.
Q To what point? A Back at the old home place in Going Snake district.
Q You have lived here continuously ever since? A Yes, sir.
Q Were you extensively acquainted with the colored people in and around, or rather in Going Snake district? A Yes, sir.
Mr. Hastings: Now as I understand you, Mr. Whitmire, you stated that you remember all of the slaves that were of your age and older, but those that you don't remember were those that were younger or smaller? A Yes, sir; I remember some that were younger than I was, those that I called a good while ago.
Q You are positive your parents didn't own a slave by the name of Nancy? A No, sir, none that I know of, there wasn't any Nancy on the place, and I believe I can call the names of all the women.
Q Are you positive your parents didn't own a girl older than yourself named Martha? A No, sir, wasn't any on the place named Martha.

J. W. ALBERTY, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A J. W. Alberty.
Q Mr. Alberty, what is your age? A Well, I am 67 years old.
Q What is your postoffice? A My postoffice is Westville, Indian Territory.
Q What district do you live in? A I live in Going Snake district.
Q You a Cherokee by blood? A Yes, sir.
Q Mr. Alberty, where did you live in the Cherokee Nation before the war? A In Going Snake district.
Q Near where you now live? A Yes, sir.
Q Did you know Johnson Whitmire? A Yes, sir.
Q Did you know him before the war? A Yes, sir.
Q How far did you live from him? A Well, it was about ten or twelve miles, I reckon we called it.
Q Did you know his family? A Well, yes I knew his family.
Q This witness here before, named Watt Whitmire, was he a son of Johnson Whitmire? A Yes, sir.
Q I will ask you if you were acquainted with a colored man by the name of Charles Boland before the war? A Yes, sir, he was a mixed blood, free.
Q I will ask you if you knew a colored woman by the name of Nancy Whitmire, alleged to have belonged to Johnson Whitmire before the war?
A Yes, sir, I knew her.
Q Now, if you know what became of Nancy Whitmire and Charles Boland I wish you would make a statement to the Commission? A The Whitmire boys sold Nancy to a man named Dillingham, and he moved right across the line from where I lived, five or six miles, and owned them there until he moved off to Texas, Charles Boland and Nancy; I knew them better after Dillingham got them than I did before.
Q Who sold them to Dillingham? A The Whitmire boys, George Whitmore and Johnson Whitmire; they were brothers and they sold them at the time they divided up the property.
Q Now about how long before the war was that they sold them, about what year? A I reckon it must have been in '47 or '8, I haven't got the dates, I wasn't expecting anything of this kind, and I didn't get the dates, but it must have been in '47 or 8.
Q What was Dillingham's citizenship? A He had none.
Q Was he a white man or Cherokee or what? A He was a white man and lived in the state.
Q What state? A Arkansas.
Q Lived across the line in the State of Arkansas? A Across the line, yes, sir, in the State of Arkansas.
Q Do you know what finally became of him out there? A Mr. Dillingham, in about '50 or '51 moved to Texas and carried the family, and Boland went with them, he was free but he followed this family off to Texas.
Q Do you know whether he had Nancy for a wife or not? A Yes, Boland had this Nancy for a wife, and claimed the family, and when Dillingham carried the family off he went with them.
Q How far did this man by the name of Dillingham live from you?
A About five or six miles.
Q Now how far did you live from the Cherokee line up there?
A Well about that time I only lived about half a mile, right at it.
Q On the west side of the Cherokee and Arkansas line? A On the west side of the Cherokee line.
Q And Dillingham lived on the Arkansas side? A On the Arkansas side, just over near what is called Dutch Town or Salem.
Q He laid no claim to Cherokee citizenship? A No, sir, not a bit; he had a son that was adopted, but the old man had none.
Q And I believe you stated that along about '50 Dillingham carried these people to Texas? A He carried them to Texas.

By A. S. McRea: I understand you to say Johnson Whitmire sold Nancy? A Yes, sir.

Q Nancy Sheppard then did belong to Johnson Whitmire? A Yes, sir, she did belong to Johnson Whitmire; there were two brothers of the children, George and Johnson Whitmire, and they owned an interest in them and they both sold their interests.

Q About what year was that? A Well sir, I can't positively say, but it was in or about '47 or '8; I have nothing to guide me by.

Q Do you know Martha, the child of Nancy? A No, sir; they were all small when they went off, I don't know any but a boy they called Ellis; Dillingham brought him back with him just a little while before the war came up.

Q Did Nancy have children when Johnson sold her? A Yes, sir.

Q Did he sell the children with her? A Yes, sir.

Q Nancy's whole family was sold? A The whole family went, yes sir.

By A. S. McRea: Mr. Alberty, where do you live? A I live in the eastern part of the Cherokee Nation here.

Q And you say Johnson Whitmire sold Nancy, the alleged mother of the applicant, Martha Albert, in 1847? A I didn't say the time he sold her, because I don't know that, he sold Nancy, Charles Boland's wife to Dillingham, and the children, but I don't know nothing about Martha at all, I didn't say the mother of her, but if she is the daughter of Nancy, why she - -

Commissioner: Was sold with the balance, was she? A Yes, sir, sold with the balance; the whole family was sold.

A. S. McRea: To whom did you say they were sold? A Dillingham.

Q Where did he live? A He lived in Texas.

Q Do you know of your own knowledge that this woman, Nancy, went to Texas? A Yes.

Q How do you know that? A I saw them start.

Q Did you see them arrive? A I didn't see them arrive in Texas, but I saw them start on the road.

Q Do you know whether or not, of your own knowledge that they arrived there? A No, sir, I can't say that, but I guess from all the circumstances they did.

Q What fixes it on your mind so very definitely that they were sold in '47? A Well, just as I said before, I said I wasn't positive about that, but it was in or about that time.

Q For how much was she sold? A Well I can't exactly say now what they did bring, because they got some horses and some cattle and some money.

Q How many horses? A I can't answer that question.

Q How many cattle? A I don't know.

Q How much money? A Well, I don't know that that would amount to anything, because it was satisfactory to them.

Q You say they were sold and we want to know what was the status of the sale? A Well I don't know the amount that they got for them, I can't say.

Q Did you see any money exchanged? A No, sir, but after that they changed hands, the darkies went.

Q It is true, they could possibly have changed hands without any sale? A Well hardly them days.

Q Then in so many words, you don't know whether that was a bona fide sale or not or your own knowledge? A Well, of my own knowledge, I would have to say it was a bona fide sale, or else he wouldn't have taken them out of the Cherokee Nation.

(Foregoing answer read by stenographer at request of attorney for applicant.)

Witness: Yes, sir.

McRea: He said you would suppose it was a bona fide sale.

Commissioner: Was that your answer?

Witness: A Yes, sir.

Commission: How long after the sale was it before Mr. Dillingham taken them to Texas? A It must have been 2 or 3 years, they lived right there close neighbors to us two or three years after they

bought them.

Q With whom? A With Dillingham, in the State of Arkansas.

Q Then when the sale was made Dillingham at that ~~xxx~~ time was living in Arkansas? A Yes, sir.

Q Is your first statement that he was living in Texas correct, at the time of the sale? A No, sir, I didn't make that, he was living in Arkansas and moved to Texas, I said, in about '50 or '51 and taken them with him in about '50 or '51.

McRea: I would like to examine the face of the record.

Commissioner: The record shows for himself. If the witness contradicts himself the record shows it. I think the witness did state when you asked him where Dillingham lived, that he lived in Texas, but you didn't specify the exact time when he lived, but the witness stated plainly now at the time Dillingham bought the slaves he lived in Arkansas and moved to Texas a few years after.

McRea: Did you ever see Nancy Whitmire any more? A Well, I never saw her after he moved off to Texas with her.

Q Are you acquainted with Martha Albert, the applicant in this behalf? A No, sir.

Commissioner: You don't know Martha at all then? A No, sir; well there were several children, but I don't recollect their names; there were several children then only they were small.

Q You have never seen the averred mother of Martha, Nancy, after Dillingahm took her to Texas? A No, sir.

McRea: And you don't know whether or not this woman, Martha, was one of the number of these children that accompanied the mother, Nancy, to Texas or not? A No, sir, I don't.

Commissioner: Did Nancy have children to your recollection?

A Yes, sir.

Q You don't recollect how many? A Well, no I don't, there was three or four, four children, there might have been more and might have been less.

Q Know whether they were boys or girls? A There was one boy.

Mr. Hastings: I believe you states that these children that she had went with her? A Yes, they all went with her.

McRea: About what was the age of these children? A Well, they were small, they were not very large.

Q 3, 4, 5, 6 ~~xxxx~~ or 10 years, something like that? A Well, he must have been 6 or 7 or 8 years old, maybe 10, I can't state that.

Q Was that a girl or a boy? A I think the oldest one was a girl.

Commissioner: This testimony will be made part of the testimony in the cases, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152, D-146, D-182. Attorney McRea for applicant objects to testimony being filed in the case of Robert Barnes et al., and the objection is overruled.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above cause, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 5th of September, 1901.

M D Green

Commissioner.

File with Cherokee Freedmen D- 99, Mary Robert Barnes.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 11, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Supplementary evidence introduced on behalf of applicants.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

The Commission: Now Mr. McRea, state briefly what you desire to prove by this witness.

A. S. McRea: Applicant desires to offer testimony in behalf of herself et al., by Sam Barnes, showing that mother of applicants did return to the Cherokee Nation within the time of the treaty stipulations, and that so far as the sale of she and her mother to one Dillingham, it is untrue.

The Commission: When you speak of the applicant, I suppose you mean Martha Albert?

McRea: Yes, Martha Albert and others.

Mr. Hastings: The Cherokee Nation objects to the applicant being allowed to introduce any testimony in this case on the question of the return of any of the applicants, for the reason that applicants introduced their testimony on both ownership and return, and the Cherokee Nation introduced testimony on both, and the only testimony which can legally be introduced by the applicant now as testimony in rebuttal of new matter brought out by the Cherokee Nation in its testimony.

The Commission: The objection of the Cherokee Nation will be noted.

S. B. BARNES, appearing before the Commission and being duly sworn and examined, testified as follows:

A. S. McRea: Give us your name, Mr. Barnes? A S. B. Barnes.
Q Your age? A About 57, going on 58.
Q Postoffice address? A Benge.
Q Mr. Barnes, are you acquainted with the applicant, Martha Albert? A Yes, sir.
Q How long have you known her? A I have known her going on 57 years.
Q Do you know whether or not she was a slave in the Cherokee Nation before the war of the rebellion?

Mr. Hastings- I object to that, both because the very testimony itself shows that he didn't know that; said he hadn't known her but 57 years.

Commission: Ask him the question.

Q Where was she when you first knew her? A She was down here right close to Cherokee.
Q Where is that? A That is down right on the line, at the Cherokee Nation.
Q Was that in the Cherokee Nation? A Yes, sir.
Q Did you know her mother? A Yes, sir.
Q What was her mother's name? A Nancy.
Q How long had you known the mother? A I got acquainted with her in '66.
Q Where was she when you first met her? A I met her down here in the Cherokee Nation? A Yes, sir.
Q Do you know whether or not they were any of the [illegible]

or not?

Mr. Hastings: He says he never met them till '64 and '65; you ought to know that he can't testify to that.

McRea: He might have heard; we have been taking hearsay testimony.

Commission: Answer the question.

A I don't know.

Q Did you ever hear of the mother of your wife, Sarah Barnes, having been sold to a man by the name of Dillingham?

Mr. Hastings: Objected to by the Cherokee Nation on the ground of hearsay.

Commission: Ask him if he knows.

Q Do you know? A No, sir, I don't know it.

Q Did your wife ever tell you they were sold.

McRea: What his wife told him is admissable.

Mr. Hastings: Objected to by the Cherokee Nation on the ground that it is clearly inadmissable, it being hearsay testimony, and a declaration in interest of the party.

Commission: Let him answer the question.

Q Did your wife ever tell you whether or not she and her mother were sold to Dillingham of Arkansas? A No sir, she never did.

Q I will ask you if you and your wife ever had any conversation pertaining to her citizenship?

Mr. Hastings: Objected to by the Cherokee Nation for the reason that it is clearly hearsay and inadmissable.

McRea: That is not hearsay testimony.

Commission: I will let him answer the question.

Mr. Davenport, Cherokee attorney: I will object on the ground that he can't testify for or against his wife, under the rules of law. I think I recollect that the Commission has served notice that it would follow the ordinary rules of evidence.

McRea: The Commission served notice that it would not confine itself to the different rulings and technicalities of law in trying testimony in this matter.

Commission: Go on with the examination, Mr. McRea.

(Question read to witness by stenographer.)

A Why of course, she met the John Chambers Court at Tahlequah.

Q Where did you marry your wife? A Marry her; we were engaged here in the Cherokee Nation but we were married at Fort Smith.

Q She was living in the Cherokee Nation when you courted her?

A Yes, sir.

Q Now when did you marry her? A I married her in November, '66.

Mr. Hastings: Where did you live before the war? A I lived in Texas.

Q What county? A Fannin County.

Q What was your owner's name? A Higginbotham.

Q What was his first name? A Thomas Higginbotham.

Q What was the nearest town to you? A Bonham.

Q Did you know Jerry Starr down there? A No, sir.

Q Did you see your wife down there? A No, sir.

Q You didn't? A No, sir.

Q Did you see Nancy Whitmire, or Nancy Boland, down there? A No, sir

Q See Martha Albert? A No, sir.

Q How old are you? A I have turned 58 years old.

Q What is your father's name? A My father, Bob Barnes.

Q When did you leave Texas? A I left Texas directly after the war ended.

Q Well, did you make a crop down there the year the war ended?

A I wasn't big enough, I didn't make no crop.

Q Who were you living with? A I was living with my old mistress.

Q She wasn't a Cherokee? A No, sir.

Q Well, did you make a crop with your old mistress, or for her, that year? A Yes, sir.

McRea: I object to all that; it is irrelevant to the question at issue.

Commission: Answer the question.

Q You made a crop for her you said? A Yes, sir.
Q The year the war ended? A Yes, sir.
Q Now then you stayed there then that year? A I left there just as the war was up.
Q I thought you said you made a crop there? A I did.
Q Then you laid that crop by, did you? A The war came to an end in the spring of '65 if I understand anything.
Q Well, how did you come to leave Texas and who did you go with?
A I come by myself.
Q Just alone? A Yes, sir.
Q Come afoot? A No, sir.
Q How did you come? A I had a horse.
Q Well, where did you come to? A I come to Fort Smith.
Q You had never been to Fort Smith before? A No, sir.
Q You had never heard of Fort Smith in your life before? A Oh yes sir, I hadn't been dead I don't reckon, I was a man.
Q How far below Fort Smith did you live when you lived in Texas?
A From Fort Smith?
Q Yes? A You mean just out on the river?
Q In Texas? A It is about 200 miles.

McRea: I object to that, the question is misleading in its nature, and I object to it.

Commission: He has already answered the question.

Q You came direct to Fort Smith? A Yes, sir.
Q Who did you work for there? A I worked for Bill Belt, five miles out south of town.
Q How long did you work for him? A I worked there a couple of weeks, or about a week, or couple of weeks.
Q Then where did you go? A I crossed over here in the Cherokee Nation.
Q What induced you to leave down there and leave your folks and go to Fort Smith at that time? A Just because I had a notion to go to Fort Smith.
Q Then what induced you to leave Fort Smith after being there only two weeks and go over on the Nation side? A Just because I wanted to go.
Q You didn't know anybody ever there, did you? A No sir.
Q You had never seen a soul? A Of course I had seen people.
Q You had never seen one of them over there at Fort Smith?
A Not from across the Cherokee Nation side, across the river; why I saw people down in Fort South out of the Cherokee Nation.
Q Who did you meet that lived on this side of the river, at Fort Smith? A I met Tom Stoneroad and Mrs. Franklin, I don't know how many people I didn't meet.
Q Whose place did you go to on this side of the river first? A I was at Mr. Stoneroad's place the first place I was at, right on the line.
Q How long did you stay there? A I didn't stay there but an hour or two.
Q Then where did you go? A I went back to town.
Q How long did you work there in town? A I don't know exactly how long.
Q A year? A I don't know exactly how long I worked in town.
Q 25 years? A I might not have worked there more than two hours, I don't know.
Q Don't know whether it was an hour or 25 years? A Yes, sir, I do know how long.

McRea: He has answered that he don't know.

Commission: Let him answer the question.

Q About how long? A I worked there two or three different times,

sometimes I would be in town a week and sometimes not but a day or two and sometimes two or three days.

Q Where were you making headquarters, or home? A I made headquarters sometimes out at Bill Belt's and after that I worked for Tom Stoneroad some right on the line of the Cherokee Nation.

Q How long did you say a while ago you had been married? A I said I married in November, '66.

Q How many years did you say that was? A I didn't say nothing about the years.

Q Who married you? A I was married by the clerk.

Q What was his name? A I don't know his name.

Q Clerk of what court? A Clerk of the Court there, at Fort Smith.

Q On the Arkansas side? A Yes, sir.

Q You got a license over there, and he married you? A I think I got license.

Q Now what is your full name? A Sam Barnes is my full name.

Q What is your wife's name? A Her name was Jennie.

Q Jennie what? A Jennie Boland.

Q She is a sister to Martha Albert? A Yes, sir.

Q Younger than Martha? A Yes, sir.

Q Have you ever been married before? A Yes, sir, had been married twice before.

Q Where had you been married? A In Texas.

Q What was your first wife's name? A Anna.

Q She dead? A Yes, sir.

Q What was your second wife's name? A Name was Mandy.

Q What year was it they had that investigation, that Chambers Court you speak of? A That was in '78.

Q Was your wife admitted or rejected? A Must have been rejected by us having to be here.

Q Did you make a statement up there before that Court? A Yes sir.

Q You never saw your wife before then? A No sir.

McRea: Did you see the mother, Nancy Boland, of your wife and Martha Albert, here in 1866? A I seen her here, yes sir.

Q In the Cherokee Nation? A Yes, sir.

Q Is she living now? A Who is that?

Q The mother, Nancy Boland? A Oh no, she died in '66.

Q Where was she buried? A Buried on this side the river there somewhere.

Q In the Cherokee Nation? A Yes, sir.

Q Did you see the father, Charles Boland I believe was his name? A Yes, sir.

Q In '66 here in the Cherokee Nation? A Yes, sir.

Q Is he alive now? A No, sir, he is dead.

Q When did he die? A He died in '72.

Q Where was he buried? A He is buried on Lees Creek.

Q In the Cherokee Nation? A Yes, sir.

Mr. Hastings: On whose place is Nancy Boland, the mother of Martha Albert and also of your wife, buried; who owns that place now?

A She was buried at what was called the Jack Campbell graveyard, my wife.

Q This Nancy Boland, where is she buried? A She is buried I think at Mrs. Franklin's graveyard.

Q Do you know it? A That is where I was told she was buried.

Q What time did she die? A She died in '66.

Q Spring, summer or fall; before you married or after? A Just before I married.

Q Did you ever see her? A Seen her many a time.

Q In Texas? A No sir, never seen her in Texas.

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Mr. Hastings: Notice is hereby served on the attorney

in the case of Turkey River and the removal cases, but in the case of [illegible] to introduce testimony in that the thereafter [illegible] between the hours of eight o'clock in the forenoon, the [illegible] between the hours of eight o'clock in the morning and five o'clock afternoon.

Judge. The Commissioner will on said date introduce the aforesaid testimony in the cases at bar.

Commissioner. This testimony will be filed in the following Cherokee Freedmen cases: D-43, D-140, D-182, D-99, D-100, D-103, D-102, D-101, D-104, D-105, D-114, D-180, D-151, D-152.

Stenographer.

Bruce B. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above cases, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce B. Jones

Sworn to and subscribed before me this the 14th of September, 1901.

Commissioner.

File with case of Robert Barnes, C.F.-D.#99.

Supl; C.F.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 17, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen, introduced on the part of the Cherokee Nation.

APPEARANCES:
W. W. Hastings, Attorney for Cherokee Nation;
A. S. McRea, Attorney for applicants.

J. W. HUGHES, being duly sworn, testified as follows on part of the Cherokee Nation. BY MR. HASTINGS:

Q What is your name? A J. W. Hughes.
Q Post office? A Ramey.
Q What is your age? A 53.
Q Are you a citizen of the Cherokee Nation? A Well my wife and children are, I wasn't married according to the Cherokee laws.
Q When were you married? A I were marri ed in '69, July, '69.
Q Where did you live that year after you were married? A I lived in the Indian Territory on Joe Purdue's place on Webber creek, in a mile and a half or two mile beyond Big Lees creek.
Q That is in Sequoyah district? A Yes, sir.
Q And about how far from Fort Smith, Arkansas? A Well, accordi ng to the line straight through, about eight miles.
Q Do you know Colly Albert, a colored man? A Yes, sir, I was acquainted with him there.
Q Were you acqueinted with his wife, Martha Albert? A Yes, sir.
Q Did you know Martha Albert's father? A Yes, sir, that is what they claimed to be her father.
Q Well, what was his name? A His name was Boldan, I could not tell you what his given name was. He claimed his name was Boldan.
Q Well, he was recognized there as the father of Martha Albert?
A Yes, sir.
Q Did you know Martha Albert's sister, Jennie Barnes?
A Yes, sir, I was well acquaint ed with them, lived in a half mile of them about four years.
Q Did these children do any work for you in these early days, '69 or '70? A Well, in the year of '70 when I was living there on the place they were living a quarter or half a mile below me, I rented a place from Joe Purdue and they were living joining that place, and I hired them to chop cotton for me and also to pick cotton and work; and do some other work making rails and fixing fence, and I worked there with them two or three years; they worked for me.
Q Did you ever have any talk, or hear any members of this family make any statement as to where they came from and their whereabouts prior to that time? A I have heard Boldan and his daughter, Colly Albert's wife, I never have heard Colly speak anything concerning it as I remember at this time.
Q Well, from Boldan or Colly's wife, Albert? A I heard Boldan-
Mr. McRea: I object to anything Boldan said.
Commission: Rule the objection and answer the question.
A I heard him saying he was in Texas; he claimed himself to be part Cherokee, if I mistake not, and that he was not a slave; he claimed that he was not but his wife and children were to me he said two children-and they were sold out of here and was carried to Texas by somebody, and I don't remember just who he said carried them away, but the best I remember about it that he had two children, Martha and Jennie, two girls, if I mistake not, as near as I can possibly think of it now at the present, and that he went along for his children's sake was what I seemed to understand from his talk.

and that he still lived there until the war closed and moved back, but I never was acquainted with him until '69 or '70.
Q Well, did he say when they went to Texas? A No, sir, I don't remember.
Q Well, as to the war, or before the war? A It must have been before the war.
Q Did he say that his wife and children were sold? A I think he did, I won't be positive about that, but I think he did. I remember one thing he told me, he was mighty jokey and working for me there picking cotton and chopping cotton and talking about his ups and downs down there in Texas, and what makes me think that you know, I asked him you come from down here in Texas and he spoke about his wife and children being sold out, and if I mistake not, he told me before the war they were sold out, I won't be positibe about that, but it seems to me that he did, and then at the close of the war, or after the war a while, he come back, but I don't remember anything about the time, date; I never was acquaint ed with him until '69, we made a crop there that year and how come me to get acquainted with him is what I say, I had rented that place of Joe Purdue's on the creek and we made a crop there that year and I made a crop there in '70.
Q Well, did you ever hear Martha Albert say anything about her whereabouts, where she came from? Well she claimed, if I understand it, she claimed that she come from Texas.
Q Do you remember whether you ever heard Jennie Banres saw anything about where she come from? A I never heard Jennie Barnes say anything about it, she was not about our house, but these others they worked for me a great deal.
Q Do you remember whether Boldan made any statement as to who his wife formerly belonged to up here in this country before the war?
A I just don't remember.

Mr. McRea: I object to that.

Commission. Your objection will be noted.

A It seems t o me that she was a whitmire, I won't be positive about that now

MR. McREA: Mr. Hughes, you say your first acquaintance with Martha Albert and her family was in '69 or '70? A First acquaintance was '69, and in the fall of '69.
Q You knew nothing of them before that? A No, sir, I did not know them before '69, I could not tell you just what time of the year, but it must to have been, the best knowledge I have about it now, was in '69, and what makes me think so I was married in '69, in July.
Q When was the last time you saw Martha Albert? A I suppose it must have been two or three years ago the last time I remember seeing her, two or three years ago.
Q Did you ever give testimony in this matter before?
A I never have, never was called on.

Commission: This testimony will be made a part of the record in the following cases: D.#42, D.#146, D.#182, D.#99, D.#100, D.#101, D.#102, D.#103, D.#104, D.#105, D.#114, D.#150, D.#151, D.#152.

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J. O. Kanon, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this September 30th, 1901.

Commissioner.

Cherokee Freedman-R-418 to 431,
both inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, April 27, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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It appears from the records of the Commission that on the 11 day of January, 1904, the Commission rendered a decision in the above case, denying all the applicants therein, which decision of the Commission was approved by the Secretary of the Interior on June 21, 1904. It further appears that on March 25, 1905, this application was remanded by the Secretary of the Interior for further hearing.

Now on this, the 27th day of April, 1905, the applicants appeared in person and by their attorneys, Neal & London. The Cherokee Nation represented by Bell, Hastings & Davenport.

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Witness for applicants.

A. J. Alberty, being duly sworn, testified as follows:

MR. NEAL:

Q. What is your name? A. A. J. Alberty.
Q. Where do you live? A. Near Stilwell.
Q. How long have you lived in the Cherokee Nation? A. I was born there.
Q. How old are you? A. About 60 years old.
Q. You are a Cherokee by blood? A. Yes sir.
Q. Were you acquainted with Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him before the war? A. I guess a couple of miles.
Q. Were you acquainted with his slaves? A. Yes sir.
Q. Do you remember anything about him selling some slaves into Arkansas some time before the war? A. Yes sir.
Q. To whom did he sell those slaves? A. I mean by the name of Dillingham.
Q. Do you know whether there was a slave named Nancy sold to that man? A. I think so.
Q. Do you know this applicant? A. Yes sir.
Q. Did you know her before the war? A. Yes sir

Q. To whom did she belong previous to the Rebellion? A. Johnson Whitmire.
Q. Was he a Cherokee Indian? A. Yes sir.
Q. Was she sold by Whitmire previous to the Rebellion? A. Yes sir, I think she was.
Q. Do you mean this applicant? A. No sir.
Q. Did he have two slaves by the name of Martha? A. Yes sir, one was called big Martha and the other little Martha.
Q. Which one was sold? A. Big Martha was sold.
Q. Was this one little Martha? A. Yes sir.
Q. Was she sold? A. No sir, the other one was sold to Dillingham.
Q. Do you know who took her out of the Cherokee Nation when the war broke out? A. This one?
Q. Yes? A. I think it was Cornelius Wright.
Q. Was he the boss who took the Whitmire niggers out? A. Yes sir.
Q. Did you, at any time during the war or at the close of the war, see this applicant anywhere, and if so, where? A. After the close of the war I was down there in the Choctaw Nation on Red River, and I learned from the Choctaws that there were a lot of refugees there. I looked out for them, and found some of the Whitmire slaves.
Q. Was that in the Choctaw Nation? A. Yes sir.
Q. When was it? A. I think, to the best of my knowledge, that it was in the fall of '65.
Q. Do you know of your own knowledge when she returned to the Cherokee Nation? A. No sir, I don't.
Q. What was this woman's mother's name? A. She went by the name of Nancy.
Q. What was the name of the other Martha Whitmire's mother? A. I think her name was Dicy.
Q. Her name was Dicy Whitmire before she was sold by Whitmire? A. Yes sir.
Q. Was her name Dicy Whitmire or Dicy Shepherd? A. They always went by the name of their master.

MR. HASTINGS:

Q. When is your birthday? A. I think it was about '43, but I aint right sure about it.
Q. You have never had a birthday since? A. No sir.
Q. You didn't have one last year? A. Yes, my birthday comes around, I guess.
Q. When was it? A. In August of '43, I think it was.
Q. But you are about 60 years old? A. Yes sir.
Q. Do you remember about the year that Dicy, the mother of Martha, was sold to Dillingham? A. It was two or three years before the war.
Q. Who else was sold at the time Dicy was sold to Dillingham? A. There were two or three children.
Q. What were their names? A. One of them was called Martha.
Q. Where did you live at the time? A. Right up above Whitmire's up in Going Snake District.
Q. Watt Whitmire lived there with his father didn't he? A. If he did he was very young.
Q. You say it was only three or four years before the war? A. Well, I don't know his age.
Q. Who did you get a letter from about a week ago to hunt up testimony in this case? A. I didn't get one from anybody.

Q. Did you ever get one from anybody with reference to hunting up testimony in this case? A. I saw Mr. Rogers.
Q. What Mr. Rogers? A. That man over there behind Mr. Neal.
Q. What interest did he have in the case? A. I couldn't tell you. He just asked me to go over there and see if I could find anybody that knew these people.
Q. Who did you go to ask? A. Mrs. Susie Walkingstick.
Q. What interest did you have in going around over the neighborhood asking people if they knew about the people in this case? A. They had asked me to do it as a favor.
Q. Did you have any interest in the case? A. No, sir.
Q. How many slaves did Johnson Whitmire have when the war came up? A. I don't know --- several.
Q. Let's have the names of some of them? A. One was called Dicy, One Nancy, Emma, Rachel. I believe that is all I know the names of. There were several more, but I don't remember their names.
Q. How far did Jack Alberty live from Johnson Whitmire? A. About 8 miles.
Q. How far did Jeff Tik-nee-sky live from Johnson Whitmire? A. About three or four miles.
Q. Do you swear that Johnson Whitmire owned this slave and her mother when the war came up? A. Of course he owned them.
Q. You will swear that? A. Of course I will.
Q. And he owned her mother at that time? A. Yes sir.
Q. Was she very old? A. Not very.
Q. Did she have any more children? A. I don't know. I wasn't that well acquainted with her. I was over there a good deal, but I didn't know about her business.
Q. Don't you know whether she had any other children besides this Martha? A. I don't know.
Q. Didn't she have one older than Martha? A. I don't know.
Q. And didn't she have two younger than Martha? A. I don't know
Q. But you knew Nancy and Martha? A. Yes sir, but I met them out on Red River after peace was made, and that is how I knewed so much about them.
Q. You didn't know that she had a brother or any sisters? A. She had some brothers I guess.
Q. What were their names? A. One went by the name of Nelson, one was Aaron, and one was Lewis.
Q. Who did they belong to? A. I think they were kinder in partnership between Johnson Whitmire and George Whitmire.
Q. Did you know the father of Johnson and George Whitmire? A. No sir.
Q. He died long before the war, didn't he? A. I guess so. I never knew him at all.
Q. When did Dillingham get Dicy? A. I don't know about that.
Q. Who took this applicant and her mother south? A. Cornelius Wright.
Q. Is that Cale Wright's father? A. Yes sir.
Q. Then Cale Wright would know about that? A. I guess he would.
Q. How do you know they went south with Cornelius Wright? A. They told me so.
Q. How old was this applicant when the war came up? A. I could not tell you. I was about 15 years old, and she wasn't as large as me.
Q. Was she five years old? A. I don't know.
Q. Was she three? A. I don't know.
Q. Was she two? A. I have no idea about her age.
Q. Do you mean to tell this Commission under oath that you knew this particular girl and yet can't tell whether she was 15 or two years of age? A. She was over two.

Q. What is your best judgment, if you are going to tell the truth? A. I guess she was 13 or 14 years old.
Q. You say she went south with Cornelius Wright? A. Yes sir.
Q. Did Cale go with his father? A. I don't know whether he did or not.
Q. Weren't you in the neighborhood? A. No sir, I was a soldier.
Q. Who was the reputed father of this applicant? A. I never knew him.
Q. Did you ever know of a free nigger by the name of Charley Bowland? A. No sir.
Q. He didn't live around there? A. He might have, but I didn't know him.
Q. He didn't go over with Dillingham? A. I don't know.
Q. You would have known it if he had? A. I might not have seen them when they left, but just heard of it.
Q. You know that Dicey went off with Dillingham? A. Yes sir.
Q. and she had a child by the name of Martha? A. Yes sir.
Q. And you swear that this Nancy and her child Martha were living there with Johnson Whitmire in Going Snake District when the war came up? A. Yes sir.
Q. And yet, you do not know how old she was? A. I guess she was 13 or 14 years old.
Q. How long was it immediately before the war that you saw this child at Johnson Whitmire's? A. I was around there several times, and I don't know just when was the last time.
Q. When was the last time you were at Johnson Whitmire's before the war. A. I couldn't tell you that.
Q. You must tell us what is your best judgment. You are under oath now? A. In those days I didn't keep any account of my whereabouts. I was a young man and didn't keep any account.
Q. Were you in the country when the war came up? A. Yes sir.
Q. How long before the war came up was it that you were at Johnson Whitmire's? A. Just a short time.
Q. How long was it before the war that you saw Nancy at Johnson Whitmire's? A. I couldn't tell you.
Q. Was it ten years? A. It might have been.
Q. It might have been 15 years? A. It might have been.
Q. You are not going to be positive on that point? A. No sir.
Q. It might have been as much as four or five years before the war that you last saw Nancy and this child at Johnson Whitmire's? A. It might have been a year or six months.
Q. When you were at Jeff Tik-nee-sky's you didn't know anything about these people? A. Yes I did.
Q. Did you tell him that you knew them -- that you knew this applicant's mother? A. Yes sir.
Q. Did you tell Jeff what you have told on this stand? A. I told him that I knew of one being named Nancy, and I told him the other one, I told him of the one that Dillingham took out -- that that one was called Dicy and her daughter was called Martha.

MR. NEAL:

Q. Did you go into the army when the war first broke out? A. yes sir.
Q. Were you around there until you went off to soldiering? A. Yes sir.
Q. Then you were in that neighborhood until the war broke out? A. Yes sir.
Q. In your cross examination you told Mr. Hastings that it might have been 10 or 15 years or six months that you lived within two miles of Johnson Whitmire and didn't go down there? Do you mean that you lived there that long and didn't go about his

place? A. Yes sir.

Q. Then you don't know whether you stayed there five years before the war or not? A. No, I couldn't tell you how long it was. I was over there now and then.

Q. Every four five years or what? A. Maybe every two or three weeks.

Q. Were you over there every two or three weeks before the war broke out? A. Yes sir, maybe it would be a month.

Q. Do you mean to say that before the war broke out you were over there every three or four weeks or every four or five years? A. It was a short time.

Q. Were you over there every week or two or every year or two? A. Every week or two.

Q. When you said you didn't know how long it was, you meant that you didn't know how many days it was before you went to the army? A. Yes sir.

Q. Did you see Nancy within a month or six weeks before you went away? A. Yes sir, I think so. It has been a long time ago and a man can't remember all of these things. Lots of things have slipped my memory.

MR. HASTINGS:

Q. Wasn't Watt Whitmire, being a son of Johnson Whitmire, in a little better position to know what slaves his father had than you were? A. I guess he would. He knew them better than I would for he was with them every day.

COMMISSION:

Q. When were you last at Johnson Whitmire's before the war broke out? A. I couldn't tell you exactly.

Q. What is your best judgment? A. It might have been two or three weeks or a month.

Q. Was it within a short time before the war broke out? A. Yes sir.

Q. Do you state now as a positive fact that when you were there the last time, that you saw this applicant there? A. Yes sir.

Q. The last time you were at Johnson Whitmire's before the war she was there? Do you state that as a fact, now? A. Yes sir, she was there, but she was never taken out of there.

Q. Well, she was there or else she was not? A. Yes sir, she was there, but she never was sold out.

Q. Were any of the other slaves there? A. Yes sir.

Q. How often have you seen this witness since the war? A. Just one time -- then I saw her yesterday or the day before. I saw her out on Red River before '65.

Q. Since '65 up to a couple of days ago you haven't seen her at all? A. No sir.

(Witness identifies his signature attached to an affidavit which is shown him.)

Q. Are you willing to swear now, Mr. Alberty, that this woman, whom you haven't seen for forty years is the same woman that you saw at Johnson Whitmire's just before the war? A. Yes sir, I saw her out on Red River in '65, and she is the same one.

Q. And you haven't seen her since until a few days ago? A. No sir, I haven't.

Q. In January of this year was your attention drawn to the fact

about some Martha Albert --- about four months ago? A. Not that I know of.

Q. Do you remember this paper that I showed you a while ago? A. Yes sir.

Q. Did you read that paper before you signed it? A. Yes sir.

Q. Four months ago you swore before Mr. Rogers, a Notary Public, that you had known this woman all your life time, and now you state that from the time you saw her down on Red River, in '65, until a few days ago you didn't see her at all? A. I couldn't see her all the time.

Q. It is a fact that you had not seen her since '65 until a few days ago? A. Yes sir, I hadn't.

Q. Prior to that time you had signed this affidavit, hadn't you? A. Yes sir.

(Reference is made to an affidavit signed by the witness in the case of this applicant, signed January 10, 1905, before H. L. Rogers, Notary Public, and which is a part of the petition for a rehearing, addressed to the Department of the Interior and to the Honorable Commissioner of Indian Affairs.)

MR. NEAL:

I have one other witness, Martha Williams, who is the Martha that was sold by Johnson Whitmire to Dillingham. She lives at Marlton, and we sent a man down after her, and this morning I got a message stating that she is sick, and that a doctor's certificate has been procured. As soon as she is able to travel I would like to bring her up here and take her testimony. The testimony of this witness is important, because she is the Martha that belonged to Johnson Whitmire and who was sold out to Dillingham.

WITNESS EXCUSED.

Martha Albert recalled for additional cross examination.

MR. HASTINGS:

Q. What is your name? A. Martha Albert now.

Q. What was your father's name? A. Charley Bowland.

Q. What was your mother's name? A. Nancy, but she was called Nannie when she was young.

Q How old are you? A. I think I am about 60 years old, but I don't know exactly. I am not educated and can't tell my age exactly.

Q. Were you married before the war? A. No sir, I was just a little girl.

Q. Were you married during the war? A. About the last year of the war.

Q. Where? A. On Red River.

Q. Who did you go south to Red River with? A. With Cornelius Wright's daughters.

Q. Who took them? A. Cornelius Wright took them, and there was another lot went along. We all went together, but I was so small that I didn't pay much attention.

Q. Did you know any of Cornelius Wright's folks? A. Yes sir, I knowed Alf Wright, and Aunt Minnie, and Aunt Dareus.

Q. Did Cornelius Wright have any children? A. Yes sir.

Q. What were their names? A. I can't tell you, for it has been a long time ago, and I can't remember their names.

Q. You can't recall the name of any one he had when the war came up? A. I can remember them, but I can't remember their names.
Q. You can't remember the names of any of them that went south with you? A. No sir.
Q. Where did Cornelius Wright live when the war came up, and about when you started south? A. On the other side of Barren Fork.
Q. On which side of Barren Fork was that? A. On the north side.
Q. How far from Barren Fork? A. I didn't go out there and measure it, Mr. Hastings, I was too young.
Q. What was Cornelius Wright's wife's name? A. Her name was Sarah, I think.
Q. Was she living when the war came up? A. It seems to me like she was dead.
Q. How long had she been dead when the war came up? A. You must recollect that I was a child and don't remember lots of things. You must give me a chance the same as anybody else. You folks didn't give us niggers no education so we could know and remember things like that.
Q. About how long before the war did Sarah Wright die? A. I don't know.
Q. Will you swear that she didn't go south with Cornelius Wright? A. I don't know.
Q. You are sure her name was Sarah? A. I said I thought it was. What did us niggers know about that. All we could call them was Mistress, and most always that was all we knowed about their names.
Q. What was Cornelius Wright's childrens names that went south? A. I don't know.
Q. You didn't have to call them Master and Mistress did you? A. Sometimes we did, and then it has been so long ago that I have raised a family myself since then.
Q. What was Johnson Whitmire's wife's name? A. She was named Tempie.
Q. Was she the wife that was living with him when the war came up? A. I think she was, but I wouldn't be positive.
Q. Was you their slave? A. Yes sir, and he had plenty of slaves besides me.
Q. How many children did Johnson Whitmire and his wife, Tempie, have? A. I will tell you the truth, and I wouldn't swear a lie to get on this roll. I don't know their names -- none but one. I knowed Watt, and that is the only one.
Q. You know him because you heard me call his name, and because he was a witness against you in this case. How old was Watt when the war came up? A. He was a good sized boy, but I was the largest.
Q. If you were a child with them and Johnson Whitmire had some more children, why don't you remember their names? A. I just tell you about that. If you had been raised up a slave in the backwoods like us you would not know your playmates' names.
Q. The truth of the business is, you weren't there? A. Yes sir, I was right there.
Q. Did he have a brother names George Whitmire? A. Yes sir.
Q. What children did George Whitmire have? A. He didn't live right there.
Q. How far did he live from Johnson Whitmire? A. I don't know. I know he lived in the country somewhere.
Q. About how far? A. I don't know.
Q. You never were at George Whitmire's? A. I belonged to Johnson Whitmire.
Q. You never were at George Whitmire's? A. No sir.

Q. You don't know whether he had any children or not? A. I think he did.
Q. You don't know any of Johnson's children but Watt, and you did not know him until he testified against you? A. Yes sir, I knowed him before.
Q. But you never knew any of the rest of them, did you? A. I don't know.
Q. Where did Johnson Whitmire live when the war came up? A. He lived up in Going Snake District.
Q. Near what town? A. Tahlequah.
Q. About how far from Tahlequah? A. I don't know.
Q. Your best judgment? A. I didn't have no judgment about it.
Q. You weren't there, were you? A. I was born and raised right there on the old Whitmire place.
Q. How far is it from Tahlequah? A. I don't know.
Q. Was it as much as two miles? A. I never have measured it.
Q. Was it a mile and a half -- what is your best judgment? A. It might have been a mile and a half or five miles.
Q. Is five miles your best judgment? A. My best judgment is that I don't know.
Q. Is five miles your best judgment? A. I don't know how far it was.
Q. On what side of Barren Fork did he live? A. On the north side.
Q. How far did he live from the creek? A. I don't know that. He didn't live so powerful fur though.
Q. Was it five miles? A. No, I don't think it was that fur.
Q. Right when the war came up how far did Johnson Whitmire live from Barren Fork? A. I guess his old house is sitting there right now, on the north side of Barren Fork.
Q. How far from the creek? A. I couldn't answer lessen I know.
Q. I want to know whether it was a short distance, or how far? A. If I had been a young woman I might have been able to tell you.
Q. How old were you? A. I must have been four or five years old.
Q. And yet, you were married the last year of the war? A. I was 13 or 14 years old when I married.
Q. What became of your mother? A. She died.
Q. Where did she die? A. Down in Sequoyah.
Q. Did your father go south with you? A. He didn't go with us but he come.
Q. You remember seeing him around Johnson Wright's before you went? A. Yes sir, but his home was on Pea Vine.
Q. What kind of a house did Johnson Whitmire live in? A. I think it was a big log house.
Q. Are you certain about that? A. No sir, I won't be certain.
Q. Did he live on the hill or in the valley? A. On the side of the hill.
Q. And you were four or five years old? A. I suppose I was about that old.
Q. You were born in '43 and left in '47? A. I don't know. You ask me too tight questions. If I was sold I would say so.
Q. How many slaves did Johnson Whitmire have? I mean when the war came up? A. He had old aount Tempie, Artie, Mose, Celia, Mary, Nancy and me.
Q. Did Celia have any children? A. No sir.
Q. Did Tempie? A. She had two.
Q. Were they older or younger than you? A. Older.
Q. Did they have any about your age? A. No sir.
Q. Did Mary have any children? A. Yes sir.
Q. What were their names? A. One was named Bass and one was named Tom.

Q. You don't know how far from Barreb Fork Johnson Whitmire lived, though? A. No sir.
Q. You didn't know any of his children but Watt? A. I did know them, but I have forget their names.
Q. You didn't know any of Cornelius Wright's children's names? A. No, sir.
Q. Q. You do not know the names of any of George Whitmire's children? A. No sir, we didn't belong to George.

COMMISSION:

Q. You have some children, haven't you, that you applied for? A. Yes sir.
Q. Elijah and Ida are two of them? A. Yes sir.
Q. Who is the father of these children? A. Colly Albert.
Q. He was a state man, wasn't he? A. Yes sir. Old man Bushyhead raised him, but he didn't belong to him.
Q. How many times have you been married? A. Just the one time.
Q. What was your husband's name? A. Colly Albert.
Q. He doesn't claim any rights as a Cherokee Freedman? A. No sir.
Q. You have a child called Henry? A. Yes sir.
Q. Has he got some children? A. Yes sir.
Q. What are their names? A. Harry, Raymond, and Louie.
Q. Who is the mother of those children? A. Florence.
Q. She is a state woman? A. Yes sir.
Q. She doesn't claim any rights as a Cherokee Freedman? A. No sir
Q. You have a girl called Lillie White? A. Yes sir.
Q. She has some children? A. Yes sir.
Q. Who was the father of those children? A. Henry White.
Q. He is a state man? A. Yes sir.
Q. Have you a child called Nancy Balkam? A. Yes sir.
Q. Has she any children? A. Yes sir.
Q. Their father doesn't claim any rights as a Cherokee Freedmann? A. No sir.
Q. Have you a daughter named Malinda? A. Yes sir.
Q. Has she any children? A. Yes sir, six.
Q. Does the father of those children claim any rights as a Cherokee Freedman? A. No sir.
Q. Are they all living? A. Malinda is dead, but her children are all living.
Q. What relation is Jennie Barnes to you? A. She is my sister.
Q. A full sister? A. Yes sir.
Q. Did you have the same father and mother? A. Yes sir.
Q. Is Robert Barnes Jennie Barnes' son? A. Yes sir.
Q. The father of Robert was a state man? A. Yes sir.
Q. Jennie Barnes had a daughter called Lula Knalls? A. Yes sir.
Q. And she has two children? A. Yes sir.
Q. What are their names? A. Sarah French and Fred E. Knalls.
Q. Was the father of Sarah French a state man? A. Yes sir.
Q. What about the father of Fred? A. He was a state man.
Q. Who was the father of R-430? A. He was a state man too.
Q. He is dead, isn't he? A. Yes sir. A. Yes sir.
Q. John Barnes is a son of Jennie Barnes, too? A. Yes sir.
Q. His father was a state man? A. Yes sir.
Q. The mother of Gussie and John is a state woman? A. Yes sir.
Q. Sarah Brown has got a child called Maggie Williams? A. Yes sir.
Q. What is its father's name? A. Marcus Williams.
Q. He is a state man? A. Yes sir.
Q. Jennie Barnes had a daughter named Maggie, and Maggie had a son named George L. Bell. Who was the father of this child? A. George Smith, or Bell.
Q. Is he a state man? A. No sir.

Q. He was denied as a Cherokee Freedman? A. Yes sir.

WITNESS EXCUSED.

Witnesses for the Nation.

Watt Whitmire, being duly sworn, testified as follows:

MR HASTINGS:

Q. What is your name? A. Watt Whitmire.
Q. What is your post office? A. Westville.
Q. What is your age? A. 63.
Q. Are you a Cherokee by blood? A. Yes sir.
Q. What was your father's name? A. Johnson Whitmire.
Q. What was your mother's name? A. Charlotte.
Q. Was your mother living when the war came up? A. No sir.
Q. How long had she died before the war? A. I don't recollect. I was just an infant when she died. I think she died about ten years before the war.
Q. Had your father remarried when the war came up? A. Yes sir.
Q. What was his wife's name then? A. Tempie.
Q. Did you have any brothers and sisters living when the war came up? A. Yes sir. I had one full brother by the name of William, older than me, and then I had some half brothers, names George and Ellis, and a sister named Charlotte.
Q. Do you know this applicant that goes by the name of Martha Albert? A. If I ever saw her before I don't know it.
Q. Did your father own some colored people when the war came up? A. Yes sir.
Q. Did he own one called Nancy when the war came up? A. No sir.
Q. Did your father own this colored applicant, who claims that she is the daughter of Nancy, when the war came up? A. There was no Nancy on the place.
Q. Did your father own this applicant? A. No sir, she wasn't on the place.
Q. Were you living with your father when the war came up? A. Yes sir.
Q. How far were you living from Barren Fork? A. Right at two miles.
Q. On which side of the creek? A. South side.
Q. Did you ever live on the north side of Barren Fork? A. No sir.
Q. Do you know (one) Andy Alberty, whose post office is Stilwell? A. Yes sir.
Q. He has just testified upon the stand that your father owned a nigger slave by the name of Nancy and this applicant, who was the child of Nancy when the war came up. Was that true? A. No sir, he never owned no woman by the name of Nancy.
Q. How far did Andy Alberty live from your father when the war came up? A. As near as I can guess it, it was 7 or 8 miles.
Q. What kind of a house did your father live in? A. A double log house.
Q. You say your own mother was dead? A. Yes sir.
Q. Was your stepmother living when the war came up? A. Yes sir.
Q. What became of your father's slaves? A. When father went south we left the women folks all at home. The men had all gone north before we left home. Me and my brother, George, were the last ones to leave the place, and we left all the women folks on the place, and after we left they all went north.

Q. None that you owned went south? A. Not one.
Q. Where did you go during the war? A. Down on Red River on the Choctaw side.
Q. Did you know Cornelius Wright? A. Yes sir.
Q. Did you know his son, Cale? A. Yes sir.
Q. How far did [redacted] live from [redacted]? A. Some five or six miles.
Q. On what side of Barren Fork? A. On the southeast side from us.
Q. Did you see them down on Red River during the war? A. Yes sir.
Q. Did they have some slaves down there? A. Yes sir.
Q. Did they have a woman by the name of Nancy? A. If they did I don't know it.
Q. Did you ever see this applicant down there? A. No sir.
Q. Did you ever see her anywhere before? A. No sir, this is the first time I ever saw her.
Q. How long were you all and Cornelius Wright's people together in the Choctaw Nation? A. I don't know. We moved away and left them there. We moved there in the early fall and left early the next spring, and we left Cornelius Wright's folks living there.
Q. They were related to you? A. Yes sir.
Q. You know that Cornelius Wright didn't have any slave of your father's by the name of Nancy, down there? A. No sir.
Q. Did you ever know the alleged father of this applicant who she said went by the name of Charley Bowland? A. No sir.
Q. Was he in your neighborhood before the war? A. I never heard of him.
Q. Did you see him down on Red River during the war? A. No sir.

MR. NEAL:

Q. You say you and your brother went off and left the women folks there? A. Yes sir.
Q. You mean the slaves? A. Yes sir.
Q. You also said that they all went north? A. Yes sir.
Q. Do you knowwhere they went? A. I don't know only what they told me. After the war they told me they went to Fort Scott. One of the men told me that.
Q. You don't know of your own personal knowledge, where they went? A. No sir, I just have their word.
Q. You say that one of the men told you? A. Yes sir, Dick and Mose both told me that the women folks were all in Fort Scott.
Q. You said the men folks all went north? A. Yes sir, they went north first -- before we left.
Q. All you know about where the women folks went is what Dick and Mose told you, and they left before you did? A. Yes sir.
Q. You say your father didn't own any slave by the name of Nancy? A. No sir.
Q. Did he own one by the name of Nannie? A. Yes sir, there was a little girl by the name of Nannie.
Q. How old do you say you are? A. 53.
Q. That would make you how old when the war broke out? A. Between 9 and 10.
Q. You were acquainted with all of your father's slaves, were you? A. Yes sir.
Q. Knew all of the children? A. Yes sir.
Q. How many children did Rachel have? A. 3 or 4 -- I don't know just exactly whether it was 3 or 4.
Q. How many children did Sookie have? A. There was Charlette, Liza, Ibby, and Mary.
Q. There was a slave there named Fronie? A. Yes sir, but I have forgot which woman was her mother.

Q. How many children did Fronie have? A. One.
Q. Of your knowledge, you don't know where your father's slaves went? A. Not only what they told me. They told me they went north.
Q. You never have seen any of the women folks since then? A. Not since the war.
Q. You don't know where they are now, do you? A. Not for certain. I never have been right to their houses.
Q. You never have spoken to one of the negro women that belonged to your father, since the war? A. No sir.
Q. The only slaves of your father's that you have seen are Mose and Dick? A. Yes sir.
Q. How many slaves did your father have when the war broke out? A. I would have to count them up.
Q. About how many? A. I guess there were 18 or 20, children and all.
Q. You have named four children of Rachel's --- A. As well as I recollect, I said there were that many.
Q. Five of Sookie's A. Yes sir.
Q. And one of Fronie's? A. Yes sir.
Q. How many more children were there? A. There was one by the name of Charlotte that had one or two children I think.
Q. Do you think that, being only 9 or 10 years old, you would recognize a woman 55 or 60 years old who was a girl at the outbreak of the war? A. I guess not.
Q. Then you don't know anything about Martha Albert -- anything about who she is, or anything about her? A. No sir.
Q. If she belonged to your father you don't know it? A. No sir.

MR. HASTINGS:

Q. You know your father didn't have a grown woman, with children, by the name of Nancy when the war came up? A. No sir, he didn't.

COMMISSION:

Q. You have testified in this case before? A. Yes sir.
Q. Are you the Watt Whitmire that testified at Fort Gibson in 1901? A. Yes sir.
Q. Do you know this man, Dillingham? A. No sir, I have heard of him frequently.
Q. Did he live in your neighborhood? A. I think not. I have heard my father speak of him.
Q. You do not know how near he lived to your home, do you? A. No sir, I know the place they said he lived on.
Q. You know this Andy Alberty that testified here awhile ago? A. Yes sir.
Q. Did you know him before the war? A. No sir.
Q. When was the first time you ever knew him? A. Since the war I got acquainted with him.
Q. You don't know whether he was in the habit of visiting your father's house or not? A. No sir.
Q. Your mother's name was Lottie? A. Charlotte.
Q. You belonged to the second marriage? A. No, the first.

MR. NEAL:

Q. How long before the war was it that your father married Temple? A. I don't recollect just when it was. I was a boy, up and running around, I guess two or three or four years old. It was anyway, three or four years before the war.
Q. You were about 9 or 10 when the war broke out? A. Yes sir.

MR. HASTINGS:

Q. Was there any other Johnson Whitmire living around there before the war? A. No sir.

COMMISSION:

Q. Do you know what year it was that you went to Red River? A. No sir, I don't.
Q. What is your best judgment as to what year it was? A. It would have to be a round about guess. I guess it was the second year of the war.
Q. Do you remember distinctly about going to the Choctaw Nation? A. Yes sir.
Q. You remember the trip down there, and the people you met down there? A. Yes sir.

WITNESS EXCUSED.

Cale Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Cale Wright.
Q. Where do you live? A. Tahlequah.
Q. How old are you? A. I am 59.
Q. What was your father's name? A. Cornelius Wright.
Q. Were you living with your father when the war came up? A. Yes sir.
Q. Where? A. About 3 or 4 miles west of Dutch Mills, on the Cherokee side.
Q. What District? A. Going Snake.
Q. How far from Barren Fork? A. About two and a half miles, I guess.
Q. Where did your father go during the war? A. South.
Q. Did you go with him? A. I didn't exactly start with him, but I got with him at Fort Smith when he was on the way.
Q. Did you continue on the trip with him? A. Yes sir.
Q. Where did you go to? A. The first place we stopped at was Armstrong's Academy in the Choctaw Nation, then we moved from there down to 10 miles south of Doaksville, near Red River.
Q. Do you know this applicant, Martha Albert? A. No.
Q. She has testified that she and her mother, Nancy went south with your father during the war, and that her mother, Nancy, belonged to Johnson Whitmire, as well as herself, at the beginning of the war? Is that True? Did a Nancy Whitmire, who had one or two children, go south with your father? A. They were not with him when I came up with him.
Q. Did they have a Nancy Whitmire anywhere on that trip? A. No sir.
Q. Were you ever about Johnson Whitmire's place before the war? A. Yes sir, I boarded there and went to school two sessions.
Q. And you lived in his neighborhood? A. Yes sir, within five miles.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a slave by the name of Nancy who had some children when the war came up? A. No sir, I never heard of that while I was there going to school.
Q. You lived in the same neighborhood? A. Yes sir.
Q. You are related to Johnson Whitmire? A. I suppose we were distantly related, but I don't know how much.
Q. You do not know the degree of relationship? A. No sir.

Q. Did you ever see this applicant down south after the war or during the war? A. I am just looking at her. Let me talk to her some and see.
Q. Are you satisfied, from the conversation that you have had with her, that she was with your father down south? A. No, she could not have been.
Q. Did your know this Amy Alberty? A. Yes sir.
Q. How far did he live from Johnson Whitmire before the war? A. It must have been 8 miles, across the mountain.
Q. You swear positively that you father didnot have a woman by the name of Nancy, and her child, that belonged to Johnson Whitmire, down on Red River during the war? A. No sir.

Applicant to witness ---- Was Arthur with you? A. No.
Q. Was Rose? A. Yes, there was a Rose -- Lucindy's daughter.
Q. Was Jinnie with you? A. Jinnie died in '61.

MR. HASTINGS:

Q. You know that no Nancy Whitmire went south with your father? A. No sir.

MR. NEAL:

Q. You said just now that you judge from your conversation with the applicant, that she couldn't have been with your father down there? A. No sir, she couldn't.
Q. The reason that you say she was not with your father is because she doesn't seem to know enough about the people? A. That is it.
Q. Upon that you base your judgment? A. Yes sir.
Q. There were a good many slaves that went with your father down there? A. Yes sir, several.
Q. Did any of the Whitmire niggers go with your father? A. No. The Whitmire's went out there themselves and we all went to ourselves, and at last we all got into the same neighborhood before we started back.
Q. You didn't go out the Territory at all? A. No, we stopped on the north side of the river in the Choctaw Nation.
Q. You say that you boarded at Johnson Whitmire's and went to school, and you say he had no slave named Nancy -- name some of his slaves --- A. You call them off.
Q. I want you to call them off? A. He had Hannah, Myra, Fronie, Rachel, Ibby, Mary, and there might have been some young ones, but those are the older ones.
Q. Didn't he have one named Jane? A. Not that I know of.
Q. Didn't he have one named Mattie? A. No.
Q. Didn't he have one named Nannie? A. Well, I don't know, but if he did she must have been mighty small.
Q. Didn't he have one named Sookie? A. Yes, there was one named Sookie.
Q. Do you know the names of any of the men? A. Yes, there was Dick, Mose, Mike, Frank, and Mark.
Q. What was Johnson Whitmire's wife's name when the war came up? A. Her name was Temple.
Q. Were you acquainted with his first wife? A. No, she was dead long before I could remember her.
Q. How old were you when you boarded there? A. It was along in '60. I was a good big chap.
Q. You remember the names of all of these slaves by having boarded there? A. Yes sir.
Q. How far did you live from there? A. About 8 miles, I reakon. In our country we had what we called bridle ways that were

nearer, but it was about 5 miles around.

MR. HASTINGS:

Q. Did you mean in the year '50 or between '50 and '60? A. Yes sir, that is it -- between '50 and '60.
Q. About how long before the war? A. I couldn't tell that. The war broke out in '61, and it must have been three or four years before the war.
Q. Were you there frequently besides boarding there? A. Yes sir.

MR. NEAL:

Q. You said when you were south on Red River that the Whitmire folks got into the same neighborhood? A. Yes sir.
Q. And some of the slaves were there? A. Yes sir.
Q. Old man Johnson Whitmire didn't carry out any slaves? A. I think George had a slave or two.
Q. You say that none of Johnson Whitmire's slaves were there? A. No, they all went north.

COMMISSION:-

Q. Have you ever seen this woman before,-to your knowledge? A. No sir, I don't know anything about her.
Q. How far do you live from Melvin? A. I live up to Tahlequah, and I don't know just how far it is.
Q. Do you know any of these applicants --- any of this woman's children? A. No sir.

WITNESS EXCUSED.

J. W. Alberty, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. J. W. Alberty.
Q. What is your post office? A. Westville.
Q. How old are you? A. Well sir, I will be 71 years old the 26th day of July.
Q. This is the case of Martha Albert, in which you have given testimony before? A. Yes sir.
Q. You knew Johnson Whitmire before the war? A. Yes sir,
Q. How far did you live from him? A. Six or seven miles.
Q. You testified about the sale of some slaves to a man by the name of Dillingham? A. Yes sir.
Q. About when did he sell them to Dillingham? A. It was either in '47 or '48.
Q. Do you know this applicant here? A. No sir.
Q. She has testified that her mother was named Nancy and that her father was named Charley Bowland. Did you know the Nancy, the alleged wife of Charley Bowland? A. Yes sir.
Q. Who did she belong to? A. Old man Dillingham moved the Texas and took this family with him.
Q. To whom did she previously belong? A. To Johnson Whitmire.
Q. And Dillingham acquired her from Johnson Whitmire in the year of 1847 or 1848? A. Yes sir.
Q. Are you certain that her name was Nancy? A. Yes sir.
Q. What became of Charley Bowland? A. He went with Dillingham.
Q. Do you know whether Nancy had some children? A. She had two or three.
Q. You don't know whether this applicant was one of them or not? A. No sir.

Q. Did Johnson Whitmire have a grown slave by the name of Nancy when the war came up? A. No sir, not that I know of.
Q. You were familiar with him? A. Yes sir.
Q. Are you prepared to say that Charley Bowland was not in that country when the war came up? A. Yes sir.
Q. Do you know Andy Albesty? A. Yes sir.
Q. Is he a relative of yours? A. Yes sir.
Q. Where did he live before the war? A. He lived right close to Oak Grove school house.
Q. How far from Johnson Whitmire's? A. Between 7 and 8 miles.
Q. Then Nancy, the wife of Charley Bowland, was taken south? A. Yes sir.
Q. What was the citizenship of Dillingham? A. He wasn't no citizen at all, he was just a white man.
Q. Well, he was a United States citizen, A. Yes sir.
Q. Where did he live in '49 or '50? A. Before he went to Texas he lived in Arkansas.

MR. NEAL:

Q. You lived closer to Dillingham that you did to Johnson Whitmire didn't you? A. Yes sir.
Q. You were better acquainted with Dillingham's slaves than you were with Johnson Whitmire's? A. Yes sir.
Q. You knew more about this woman after Dillingham bought her than you did when she belonged to Johnson Whitmire? A. Yes sir.

WITNESS EXCUSED.

Jeff Catcher (Tik-nee-sky), being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Jeff Catcher.
Q. What is your post office? A. Stilwell.
Q. How old are you? A. I was 65 the 15th day of last month.
Q. Are you a Cherokee citizen? A. Yes sir.
Q. You are also known as Jeff Tik-nee-sky? A. Yes sir, that is my Cherokee name.
Q. Where did you live before the war? A. In Going Snake District on Pea Vine.
Q. Close to where you live now? A. About 300 yards west of where I live now.
Q. Did you know Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. It was about three quarters of a mile, I reckon, maybe a leetle over.
Q. Were you a soldier in the Army? A. Yes sir.
Q. You were about grown when the war came up? A. Yes sir.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman by the name of Nancy, who had some children, when the war came up? A. No sir, I don't recollect one by that name.
Q. Were you frequently at his house? A. Pretty near all the time. Once a week anyhow. I was there pretty much all the time.
Q. Do you know this applicant, who gives her name as Martha Albert? A. No sir.
Q. Did you ever see her before? A. No sir.
Q. Did you know a white man that lived across the line by the name of Dillingham before the war? A. No, I never saw him, but I

have heard him talked of a good deal.

Q. You were too small to remember him? A. Yes sir, but I have heard of him.

Q. You don't know whether he bought some slaves of Johnson Whitmire or not? A. I don't know. He didn't after I got big enough to recollect.

Q. Did Johnson Whitmire, when the war came up, have a woman by the name of Nancy? A. No sir.

Q. What army were you in? A. The Federal army.

Q. Do you know Andy Alberty? He just testified here awhile ago? A. Yes sir.

Q. How far did he live from Johnson Whitmire? A. Between 7 and 8 miles.

Q. Did you know a free colored man in that country by the name of Charley Bowland? A. I have heard of him, but I don't recollect him.

Q. He wasn't there just before the war? A. No sir.

MR. NEAL:

Q. You say that you don't remember a woman named Nancy that belonged to Johnson Whitmire? A. No sir.

Q. You don't mean to say that he didn't have one by that name, but that you just don't remember her? A. If he had one it must have been a small child, for I know all the old ones. I think I can name all the old ones.

Q. Name them? A. The old women that I knew was Myra, Mag, Sookie, Hannah, Rachel, Fronie, Mary, Charlotte, and the balance were small and I don't recollect their names.

MR. HASTINGS:

Q. Was Andy Alberty over to see you lately to see about this case? A. Yes sir, last Sunday.

Q. What did he say to you? A. He asked me if I knew of Mr. Whitmire having a woman by the name of Nancy?

Q. What did he say about it? A. He didn't say that he knew anything about it. He just wanted to find somebody that knew them.

Q. Did he say that he knew one at that time by the name of Nancy? A. He didn't say whether he did or not? He just wanted to find somebody that did know her. I told him I didn't think Johnson Whitmire owned any nigger by that name.

Q. That is the same Andy Alberty that you saw out there in the hall who has just testified here? A. Yes sir.

MR. NEAL:

Q. As soon as Mr Alberty told you that he wanted to get witnesses who knew this woman who did you go and tell about it? A. I told him that there was an old woman up there, Susie Walkingstick, and that if anybody would know about it she would for she was older than I was. I said, for my part, I didn't know anything about it. Afterwards, I saw him and told him that what I knew was not in his favor, but will go against him, for I was there and knew all about his niggers.

Q. You sent him around to see Susie Walkingstick, and told him that if he owned one by that name it was before you could remember? A. Yes sir.

Q. And then you chased out to see if they wanted witnesses for the Nation? A. No sir.

COMMISSION:

Q. How big a place did Johnson Whitmire have? A. About 75 acres in cultivation.
Q. About how many slaves did he have at the beginning of the war? A. He must have had 15 or 20.
Q. Was that the only place he had in the Cherokee Nation? A. Yes sir.
Q. Did he have a plantation anywhere else? A. Nothing only a cattle ranch down about Webbers Falls. He and his brother George had a ranch together. They both owned slaves.
Q. He didn't have any female niggers down at the ranch? A. No sir.
Q. You are postive that those are the only two places he had? A. Yes sir.

WITNESS EXCUSED.

Charlotte Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charlotte Wright.
Q. What is your post office? A. Christie.
Q. How old are you? A. 58.
Q. What was your maiden name? A. Whitmire.
Q. Who was your father? A. George Whitmire.
Q. What relation was he to Johnson Whitmire? A. A brother.
Q. Where did you live before the war? A. I lived on Barren Fork. West of the Barren Fork station and east of Christie.
Q. How far from where you are living now ? A. About a mile and a half.
Q. You have lived there all your life? A. Except when I was south during the war.
Q. Did you go south? A. Yes sir, we were gone four years.
Q. Where did you go? A. To Red River -- near Bonham, only we were on the Choctaw side.
Q. Did you know Cornelius Wright before the war? A. Yes sir.
Q. Did you see him down on Red River? A. Yes sir.
Q. Do you know Cale Wright? A. Yes sir.
Q. You saw these people down south during the war? A. Yes sir, we got to be neighbors down there.
Q. Did Johnson Whitmire have some slaves before the war? A. Yes sir.
Q. Do you know this applicant here? A. I don't recognize her.
Q. Did Johnson Whitmire have a grown woman slave by the name of Nancy when the war came up? A. I don't remember her.
Q. Was there a free colored man in the neighborhood, by the name of Charley Bowland, when the war came up? A. I never heard of it.
Q. This applicant gives her mother's name as Nancy and her father's name as Charley Bowland? A. I never knew them.
Q. Do you state that Johnson Whitmire had any slave by the name of Nancy, who had some children, when the war came up? A. If he did I don't know it.
Q. He was your uncle? A. Yes sir.
Q. Were you frequently at his house? A. Yes sir.
Q. How far did your father live from him? A. I guess it was 5 or 6 miles.
Q. You lived in the same neighborhood? A. Yes sir.
Q. And you were frequently at your uncle's place? A. Yes sir.
Q. Would you stay any length of time A. As long as a week.
Q. You knew his family and slaves? A. Yes sir.

Q. They never had one by the name of Nancy that you know of? A. No sir.
Q. Did you see any slaves down south with Cornelius Wright, and among them one named Nancy who claimed to belong to your uncle Johnson before the war? A. No sir, none of his slaves went south that I know of. They all left him.
Q. You didn't see any down there that claimed to have belonged to him? A. No sir.
Q. You do not remember to have ever seen this applicant before? A. No sir.
Q.

MR. NEAL:

Q. You have not seen any of Johnson Whitmire's female slaves since the war, have you? A. No sir.
Q. You probably wouldn't remember a girl that was 4 or 5 years old? A. I think I would recognize her. I could be mistaken, but I think I would recognize her.
Q. How old were you when the war broke out? A. I was 14 years old whenwe had to leave home.
Q. You say that if Johnson Whitmire had a slave by the name of Nancy you don't know anything about it? A. No sir.
Q. You don't know that he didn't have any one by that name, but you just don't know about it? A. I never saw one by that [illegible] on the place, and I don't think he had one by that name. I don't recollect anything about it, and never heard anything about it.
Q. You don't know positively that he didn't have one by that name? A. No sir, he didn't have one by that name that I knew of. He didn't have one at home, and I don't think he had any away from home. I never heard of it if he did. But I know there was no one on the place by that name.

WITNESS EXCUSED.

Charles Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charles Whitmire.
Q. What is your post office? A. Proctor.
Q. How old are you? A. 56 I reckon.
Q. Are you younger than your sister Mrs. Wright? A. Yes sir.
Q. She was your sister? A. Yes sir, she was always recognized as my sister.
Q. You are the son of George Whitmire? A. Yes sir.
Q. Johnson Whitmire was your uncle? A. Yes sir.
Q. Do you remember Johnson Whitmire before the war? A. Yes sir.
Q. About how old were you when the war came up? A. I couldn't tell you -- 12 or 14 I guess.
Q. Were you about Johnson Whitmire's frequently? A. Yes sir, I stayed there a right smart and went to school from his house.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman slave who had some children, by the name of Nancy, when the war came up? A. Not that I remember.
Q. Well, if he had had one that was old enough to be, and was the mother of some children would you have known it? A. Yes sir, I think I knowed all of the older ones.
Q. You didn't know any by that name? A. No sir.
Q. Do you know this applicant here? A. No sir.
Q. Did you ever see her before. A. Not that I remember.
Q. Did you ever know a free colored person by the name of Charley

Rowland in that country? A. No sir.
Q. Then of course you never knew his wife, Nancy? A. No sir.
Q. Did you say that you stayed at Johnson Whitmire's and went to school? A. Yes sir.
Q. Do you know Johnson Whitmire's wife and family? A. Yes sir.
Q. Is Watt one of the children? A. Yes sir.
Q. Where did you go during the war? A. I went south to Red River.
Q. Did you know Cornelius Wright? A. Yes sir.
Q. Did you see him down there? A. Yes sir.
Q. Was he CaleWright's father? A. Yes sir.
Q. Did he carry any of Johnson Whitmire's slaves down south with him? A. No sir.
Q. It has been sworn that he took some of Johnson Whitmire's slaves and among them was this woman, Nancy, and this applicant. Is that true? A. If he did, he didn't have them when we got to where they were.
Q. You were not old enough to know a white man by the name of Dillingham,were you? A. No sir.

MR. NEAL:

Q. How old did you say you are? A. 56, if I am not mistaken.
Q. You are older than your sister? A. No sir.
Q. Who else was boarding down there and going to school? A. Nobody but me and his boy went to school. Sometimes aunt Tempie had two sisters that stayed there and went to school.
Q. When were you there? A. I don't know.
Q. Were you there off and on for four or five years before the war? A. I don't know.
Q. Did you stay there more than one year? A. I went from there for two or three sessions.
Q. You never happened to be there when anybody else was boarding there? A. I was there when aunt Tempie's sisters were there. I don't remember any body else.
Q. How many years before the war was it? A. I am not able to tell you what year it was. I stayed at home some, and then I didn't get to go to school but very little.
Q. Your cousin, Cale, boarded down there and went to school, didn't he? A. I couldn't say whether he did or not. If he went to school, from there when I did I don't remember it.
Q. You said that you were of the opinion that Johnson Whitmire had no slave by the name of Nancy who was old enough to have children at that time? A. No sir.
Q. If he did, you don't remember it? A. No sir. I don't remember any of the folks on the place calling one by that name.

MR. HASTINGS:

Q. If there had been one there by that name would you have known it? A. Yes sir.

MR. NEAL:

Q. You would remember it all these years would you? A. I don't know, but I think I would. I remember the names of all of the older ones.

COMMISSION:

Q. Where was this school? A. On Barren Fork, on Pea Vine.

Q. How far from Johnson Whitmire's ? A. About a mile and a half
Q. Who had this school? A. An old missionary lady taught the school. I don'r remember her name.
Q. Was it a kind of a convent school? A. It was kept up by the Cherokee Nation. It was a public school.
Q. How far away was the nearest school to it? A. I couldn't say positively just how far away. I expect it was 8 miles. I wouldn't be positive , but I expect it was that far.
Q. Was Johnson Whitmire in the habit of taking boarders to attend school? A. Yes sir, and so did my father.
Q. You were convenient to the school, and the people from the neighboring vicinity sent their children over there to board and go to school. A. Yes sir.

MR. NEAL:

Q. You say your father kept boarders? A. Yes sir.
Q. How did it happen that you didn't board at home? A. My uncle had a boy, and had nobody to go to school with him, so I was sent over to go to school with this boy.
Q. How near did your father live to the school? A. About four miles, but he built a house about three quarters of a mile from the schoolhouse where he kept the teacher and boarders.

WITNESS EXCUSED.

(Mr. Neal -- I would like that the case be held open until I can introduce one other witness, the Martha Williams who was actually sold to Dillingham, and if I can get her, I will bring Susie Walkingstick.

By consent and agreement, this case is continued to May 11, 1905, at 1:30 o'clock, P. M.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 27th day of April, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

(Signed) Eula Jeanes Branson.

Subscribed and sworn to before me this the 29th day of April, 1905.

(Signed) Byron White
Notary Public

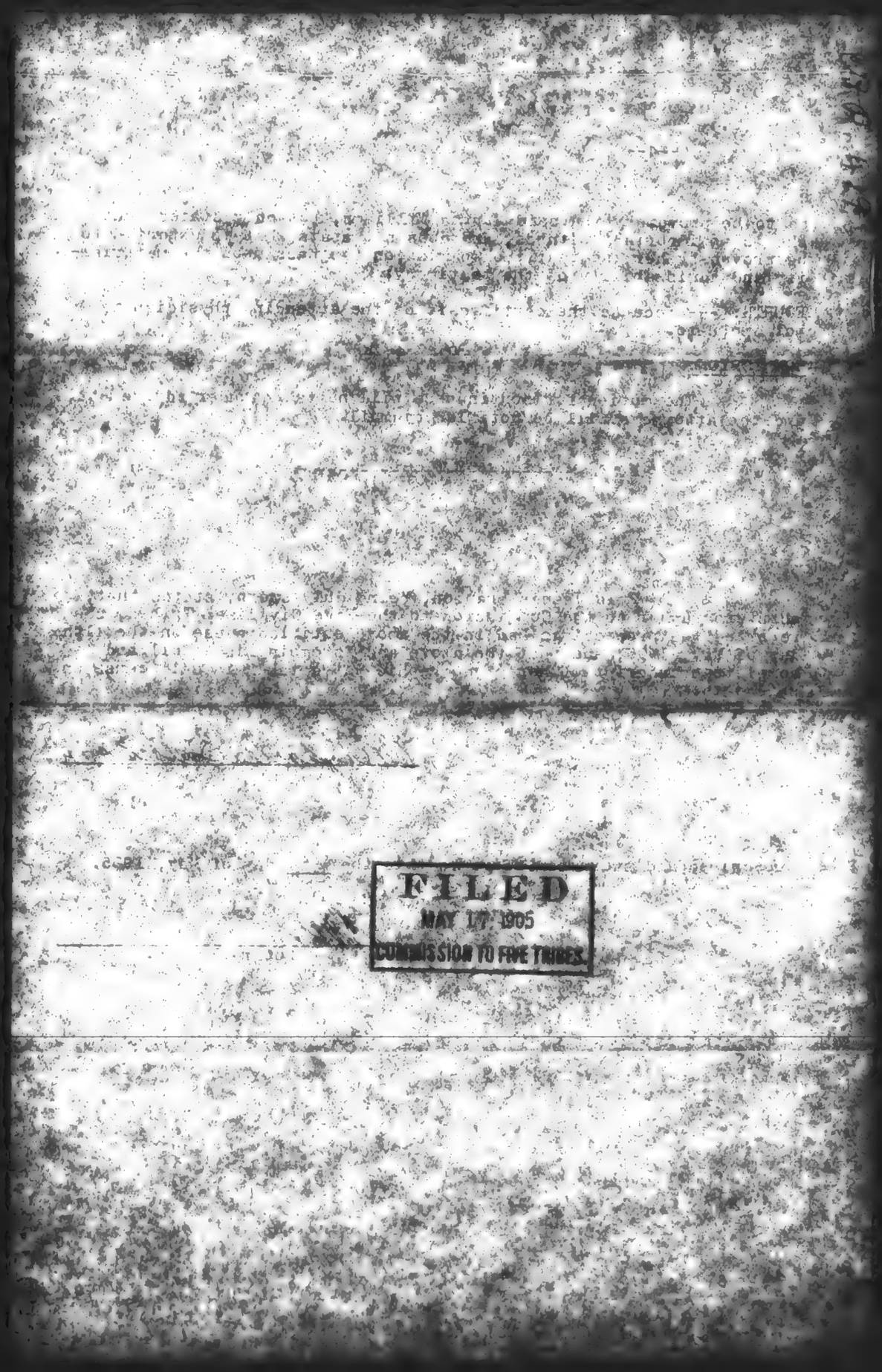
Mabelle Pumpkin, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, she made the above and foregoing copy, and that the same is a true and complete copy of the original transcript.

Mabelle Pumpkin

Subscribed and sworn to before me this 19th day of May, 1906.

[illegible]
Notary Public.

OFFICE
[illegible]


FILED
MAY 17 1905
COMMISSION TO FIVE TRIBES

Cherokee Freedman-R-416 to 431, inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Muskogee, Indian Territory, May 11, 1906.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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Neal & London, attorneys for the applicants.

Bell, Hastings & Davenport, attorneys for the Cherokee Nation.

COMMISSION.

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On this, the 11th. day of May, this cause coming on to be heard, the applicants appeared neither in person nor by attorney.

The Cherokee Nation, represented by W. W. Hastings, introduces the following testimony:

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Aaron Whitmire, being first duly sworn, testified as follows on behalf of the Cherokee Nation:

MR. HASTINGS:

Q. Your name is Aaron Whitmire? A. Yes sir.
Q. You are a freedman citizen of the Cherokee Nation? A. Yes sir.
Q. How old are you? A. About 69.
Q. To whom did you belong when the war came up? A. George Whitmire.
Q. What relation was George to Johnson Whitmire? A. They were brothers.
Q. How far apart did they live? A. About four miles when the war come up.
Q. In what District? A. Going Snake.
Q. Did they use to live together? A. Yes sir, till they married.
Q. Were you familiar with Johnson Whitmire's slaves? A. Yes sir.
Q. Did you ever know a slave that he had there by the name of Nancy who had Charley Bowland, a free colored man, for her husband? A. Yes sir.
Q. What became of Nancy? A. She was sold to a man by the name of Dillingham.
Q. What was Dillingham's citizenship? A. A citizen of the United States.

Q. Where did he live? A. Right on the line of -- or close to the line of Arkansas.
Q. Did this Nancy have any children when she was sold? A. I think she had one, is all I recollect.
Q. What was that child's name? A. Martha.
Q. Now, I refer to the Nancy who had a husband by the name of Charley Bowland, a free colored man? A. Yes sir, and so do I
Q. About how long before the war was it that she was sold to Dillingham? A. As near as I can recollect, it must have been 8 or 10 years or more.
Q. Did Dillingham continue to live over there in Arkansas till the war come up? A. No sir.
Q. What became of him? A. He went to Texas before the war come up.
Q. Aaron, it has been alleged here that Johnson Whitmire had another Martha whose mother was Dicy, and that Dicy and that Martha were sold instead of this Martha and Nancy. Did he have another woman by the name of Dicy? A. Yes sir.
Q. Did he have her when the war come up? A. No sir, she was dead.
Q. Did he sell her to Dillingham? A. No sir.
Q. When did she die? A. Before the war, and before Nancy was sold.
Q. Did Dicy have any children? A. One.
Q. What was its name? A. Cinthy.
Q. What became of Cinthy? A. She was sold to a man by the name of Russell, who lived in Arkansas.
Q. About how long before the war was she sold? A. 6 or 8 years
Q. Did Johnson Whitmire have any other Dicy? A. No sir, never did.
Q. Did you ever hear of his selling a Dicy to Dillingham? A. No sir.
Q. Did you ever hear of his selling a little girl by the name of Martha, besides this one? A. No sir, this was the only Martha on the place.
Q. Did he have a Martha when the war came up? A. No sir.
Q. Did you ever see the applicant who gives her name as Martha Albert, who is the wife of Collie Albert? A. I haven't seen her since she was sold.
Q. Did Charley Bowland go to Texas? A. Yes sir.
Q. Was he in the Going Snake country when the war came up? A. No sir, I never did see him after he went to Texas.
Q. What became of Johnson Whitmire's slaves? Did any of them go to Texas? A. No sir.
Q. What became of his women slaves? A. They went north.
Q. Who took them north? A. They went off with the soldiers.
Q. How long did you remain up there at the old Whitmire place? A Till '64.
Q. Then you went to Kansas? A. Yes sir.
Q. Had all of Johnson Whitmire's slaves gone off north with the soldiers? A. All but two, and they were with me. They were two very old women -- Amy and Myra.
Q. Had Cornelius Wright gone south? A. Yes sir.
Q. He took his slaves with him? A. Yes sir.
Q. Did Johnson Whitmire have any other Nancy or Nannie other than the one he sold to Dillingham? A. Yes sir, he had a little girl called Nannie.
Q. Who was her mother? A. Sookey.
Q. What was Sookey's name? A. Smith.
Q. What was her husband's name? A. Jesse Smith. He is dead.
Q. Where does she live? A. Up here on Big Creek in Coowescoowee District.

Cornelius

Q. How many slaves did Johnson Whitmire have at the beginning of the war? A. He had some 20 or 25.
Q. Can you give their names? A. I could name the old ones.
Q. Give me the names? A. The first old woman was Amy, Myra, Hannah, Sookey, Kizzy, Mike, Dick, Martin, Rose, Saphronie, Rachel, Charlotte, Lisa, Aby, Frank, Nannie. That is about all I can recollect.
Q. These are all the older ones? A. Yes sir.
Q. The younger ones you do not remember? A. I cannot recollect them.
Q. How many of these slaves do you know of that are living now, of these 15 or 16 you have just named? A. I don't know of but two that are living.
Q. Where are they? A. Up on Big Creek.
Q. What are their names? A. Nannie Smith and Frank Whitmire.
Q. Where does Frank live? A. On Big Creek.
Q. How old a man is he? A. I don't know just how old a man he is -- right at 60 I guess.
Q. Do you know Martha Williams? A. No sir.
Q. Are you positive now that at the breaking out of the war Johnson Whitmire did not have a slave by the name of Martha? A. Yes sir.
Q. Do you know whether he had a child slave by that name? A. No sir, there was not one by the name of Martha.
Q. You know that of your own knowledge? A. Yes sir.
Q. You mentioned in your testimony about a Nancy who had a daughter called Martha, and that they were sold to Dillingham. Have you ever seen them since that time? A. I never have.
Q. Do you know who this applicant is -- have you seed her? A. I don't know that I would know Martha if I saw her.
Q. How far do you live from Fort Smith? A. I live away up near the Kansas line.
Q. Did you say you knew Charley Bowland? A. Well.
Q. Was he a free colored person? A. Yes sir.
Q. Do you know that he married one of Johnson Whitmire's slaves named Nancy? A. Yes sir.
Q. You cannot be mistaken about that? A. No sir.

WITNESS EXCUSED.

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COMMISSION:

After the introduction of the above testimony by the Cherokee Nation, the attorneys for the applicants appear, by their stenographer, Miss Sorenson, and filed with the Commission a motion for continuance.

MR. HASTINGS:

The attorneys for the Cherokee Nation object to the motion for continuance, filed in this case, for a number of reasons, to-wit:

FIRST: --- This case has been continued a number of times upon motion and at the request of the applicants.

SECOND: --- The motion for continuance is not sworn to.

THIRD: --- The motion for continuance does not set up what it expects

ed to be proven by the said Martha Williams, but only states that she is an important witness, and does not state what is expected to be proven by her, so that the Commission can pass upon the materiality and admissability of the testimony.

FOURTH. --- Because the certificate of the attending physician is not sworn to.

COMMISSION:

The motion for continuance will ne taken under advisement, and the attorneys will be notified by mail.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 11th day of May, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson.

Subscribed and sworn to before me this the 16 day of May, 1905.

FILED
MAY 17 1905

Notary Public.

A. P. Mc.
D. C. L.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Martha Albert, et al., as Cherokee freedmen, consolidating the applications of:

| | | | |
|---|---|---|---|
| Martha Albert et al., | Cherokee Freedmen | (D 42) | R 414 |
| Robert Barnes, | " " | (D 99) | R 419 |
| Lula Knallis et al., | " " | (D 100) | R 420 |
| Nancy Berkum et al., | " " | (D 101) | R 422 |
| Henry Albert et al., | " " | (D 102) | R 423 |
| John Barnes et al., | " " | (D 103) | R 423 |
| Jerry Albert | " " | (D 104) | R 423 |
| Lillie White et al., | " " | (D 105) | R 424 |
| Malinda McLain et al., | " " | (D 114) | R 426 |
| Frank Gardner | " " | (D 146) | R 430 |
| Joshua Barnes | " " | (D 150) | R 427 |
| Sarah Brown et al., | " " | (D 151) | R 428 |
| Minnie Barnes | " " | (D 152) | R 429 |
| Maggie Bell et al., | " " | (D 153) | R 431. |

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D E C I S I O N.

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Martha Albert for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knallis for herself and minor children, Sarah French and Byrd B. Knallis; by Nancy Berkum for herself and minor children, Annie and Walter Berkum; by Henry Albert for himself and minor

children, Harry and Raymond Albert, thereafter, on October 21, 1902, there was filed with the Commission an affidavit showing the birth, on June 4, 1902, of Lewey Albert, son of the applicant, Henry Albert; by John Barnes for himself and minor child, Gussie A. Barnes, thereafter, on August 20, 1902, there was filed with the Commission an affidavit showing the birth, on June 15, 1902, of John A. Barnes, son of the applicant, John Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie and Nancy White, thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on March 8, 1902, of Amos White, son of the applicant, Lillie White; by Charles McLain for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain, thereafter, on September 1, 1901, there was filed with the Commission an affidavit showing the birth, on May 17, 1901, of Mattie McLain, daughter of the applicant, Malinda McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; and by George C. Bell for his wife, Maggie Bell, thereafter, on November 7, 1901, there was filed with the Commission an affidavit showing the birth, on September 18, 1901, of George L. Bell, son of the applicant, Maggie Bell.

THE RECORDS FURTHER SHOW: That on January 11, 1904, the Commission rendered its decision herein, denying said applicants, except Mattie McLain, whose rights to enrollment through an oversight, were not considered, the right to enrollment as Cherokee freedmen, and that on June 21, 1904 (Departmental letter I.T.D. 4732-04), said decision was duly affirmed by the Department; that, thereafter, on March 25, 1905 (Departmental letter I.T.D. 1332-05), on motion of the applicants, this case was reopened by the Department, and remanded for further testimony and readjudication; and that, thereafter, on April 13, and 27, and May 11, and June 22, 1905, further proceedings in the matter of said applications were had at Muskogee, Indian Territory.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Martha Albert, claims the right to enrollment as a Cherokee freedman by virtue of her compliance with the treaty stipulations of 1866, and that all the other applicants herein claim the same right as descendants of the said Martha Albert and one Jennie Barnes, deceased, who, it is alleged, complied with said treaty stipulations of 1866.

The following points are fully established by the evidence, no attempt having been made to disprove them:

(1) That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were full sisters, and were born prior to the commencement of the rebellion.

(2) That all the other applicants herein were born since the commencement of the rebellion, are lineal descendants of the applicant, Martha Albert, and the said Jennie Barnes, deceased, and possess no rights to enrollment as Cherokee freedmen o other than as such descendants.

( The records of this office fail to show that Ruth Barnes, mother of the applicants, Gussie A. and John A. Barnes, has ever made application for enrollment as a Cherokee freedman. Her mother, Millie White, and full sister, Viola White, and full brothers, Jim H. and Harry White, were originally listed for enrollment as Cherokee freedmen on Memorandum cards Nos. 10, 13, and 14, and were later transferred to Freedmen Rejected cards Nos. 317, 320 and 321. On April 24, 1905, their applications for enrollment as Cherokee freedmen were denied by the Commission, and record forwarded to the Department.

George C. Bell, father of the minor applicant, George L. Bell, was denied enrollment as a Cherokee freedman, by the Commission, on April 20, 1904, and on May 26, 1904, -Departmental letter I.T.D. 4050-04,- the Commission's decision was approved by the Department).

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the commencement of the rebellion, but, rather, that several years prior to the commencement of said rebellion, they, together with their mother "Nancy", were sold to one Dillingham, a citizen of the United States, were removed from the Cherokee Nation, and it is further shown that they did not return to said Nation on or prior to February 11, 1867. Excepting the Wallace and Kern-Clifton Rolls, none of the applicants herein can be identified on any roll of the Cherokee Nation in the possession of this office.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 ( 30 Stat., 495), Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A.

-4-

Burgess, John A. Barnes, Jerry Albert, Lizzie White, Hattie White, Henry White, Jesse White, Rolinda Nolatn, Samuel Nolatn, Ella Nolatn, Christina Nolatn, [illegible] Nolatn, Frank [illegible] and George L. Hall, not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

Commissioner

Dated at Muskogee, Indian Territory,
this _____

COPY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Martha Albert, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

| | |
|---|---|
| Martha Albert, et al.,..... | Cherokee Freedmen D- 42 |
| Robert Barnes,..... | Cherokee Freedmen D- 99 |
| Lula Knalls, et al.,..... | Cherokee Freedmen D-100 |
| Nancy Berkum, et al.,..... | Cherokee Freedmen D-101 |
| Henry Albert, et al.,..... | Cherokee Freedmen D-102 |
| John Barnes, et al.,..... | Cherokee Freedmen D-103 |
| Jerry Albert,..... | Cherokee Freedmen D-104 |
| Lillie White, et al.,..... | Cherokee Freedmen D-105 |
| Malinda McLain, et al.,..... | Cherokee Freedmen D-114 |
| Frank Gardner,..... | Cherokee Freedmen D-146 |
| Joshua Barnes,..... | Cherokee Freedmen D-150 |
| Sarah Brown, et al.,..... | Cherokee Freedmen D-151 |
| Minnie Barnes,..... | Cherokee Freedmen D-152 |
| Maggie Bell, et al.,..... | Cherokee Freedmen D-182 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Martha Albert, for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls, for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Berkum, for herself and minor children, Annie and Walter Berkum; by Henry Albert, for himself and minor children, Harry and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Lewsy Albert; by John Barnes, for himself and minor child, Fannie A. Barnes; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert, for himself; by Lillie White, for herself and minor children, Mattie and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Amos White; by Charles McLain, for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner, and Jeanette McLain; by Frank Gardner, for himself; by Joshua Barnes, for himself; by Sarah Brown, for herself and minor child, Maggie Williams; by Minnie Barnes, for herself; by George L. Bell, for his wife, Maggie Bell; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell.

The evidence shows that the applicant, Martha Albert, and her sister, Jennie Barnes, now deceased, were not slaves of Cherokee citizens or free colored persons residing in the Cherokee Nation at the commencement of the war of the rebellion. All the other applicants herein, have been born since the commencement of the rebellion and are descendants of and claim right to enrollment through either the said Martha Albert or Jennie Barnes.

None of the names of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lala Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee Freedmen, should be denied under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Tams Bixby

T. B. Needles

C. R. Breckinridge

D. E. Bushyhead

Muskogee, Indian Territory,

this JAN 11 1904

JAN 11 1904

3

3609

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 14 1901

Acting Chairman.

COMMISSIONERS:
HENRY L. DAWES.
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, Indian Territory, May 13th, 1901.

Received of the Commission to the Five Civilized Tribes one copy of the original testimony in the matter of the application of Robert Barnes for enrollment as a Freedman of the Cherokee Nation, and copies of the testimony in the matter of the application of Martha Albert et al for enrollment as Freedmen of the Cherokee Nation; said testimony having been made a part of the record in the case of Robert Barnes.

A. S. McRea

Attorney for Applicant.

Cherokee F-#D99.

COPY.

Cherokee F.D.-99

Muskogee, Indian Territory, January 11,1904.

Robert Barnes,

Foreman, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself as a Cherokee Freedman. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission has been informedof the same.

Respectfully,

T. B. Needles

Enc. D-33 Commissioner in Charge.

Register.

W. C. F.
MCB.

DEPARTMENT OF THE INTERIOR,

D. C. 16478-1905.

WASHINGTON, March 28, 1905.

I, T. D. 1532-1905.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department has considered a motion filed by attorneys Neal and Loudon, of Fort Smith, Arkansas, dated December 10, 1904, to reopen the Cherokee enrollment case of Martha Albert, et al.

January 11, 1904, you decided that the applicants in said case were not entitled to enrollment, and on June 21, 1904, your decision was approved by the Department.

The attorneys desire the case reopened in order that newly discovered evidence may be introduced to show that previous to the breaking out of the war Johnson Whitmire owned two slaves by the name of Martha; that prior to the breaking out of the war one of said slaves was sold to a man named Dillingham who lived in Arkansas; that she married a man named Williams; that the other Martha, known as "Little Martha", who is one of the applicants in the case of Martha Albert, et al, married a man named Albert who lived in the Cherokee Nation. It is claimed by said attorneys that the evidence introduced by the Cherokee

Nation at the original hearing does not apply to the applicant herein.

It appears from the motion and the affidavits submitted that the case should be reopened. The motion is hereby granted. You will so notify the applicants and their attorneys and the attorney for the Cherokee Nation, and allow a reasonable time for the introduction of additional testimony, after which you will readjudicate the case.

The motion, the record and other papers in the case are inclosed.

Respectfully,

(Signed) E. A. Hitchcock

Secretary.

4 inclosures.

D.C. 21473-1904. W.C.M.

I.T.D. 4732-1904. J.P.

L R S FEE

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 21, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 11, 1904, you transmitted the record in the consolidated case embracing the applications of Martha Albert et al. (F.D.-42), for enrollment as Cherokee freedmen, [redacted] your decision of the same date, rejecting the applications.

Reporting June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department affirms your decision, for the reasons stated therein.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

1 inclosure.

Refer in reply to the following:

Lands 3343-1904. Okmv.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 9, 1904.

In re
Application for enrollment
as Cherokee Freedmen, viz:

| | | |
|---|---|---|
| Martha Albert, et al | F.D. 42 | Consolidated. |
| Robert Barnes, | F.D. 98, | |
| Lula Banks, et al | F.D. 100 | |
| Nancy Berkum, et al, | F.D. 101, | |
| Henry Albert et al, | F.D. 102, | |
| John Bowens, et al, | F.D. 103, | |
| Jerry Albert, | F.D. 104, | |
| Lillie White, et al, | F.D.105 | |
| Malinda Holden, et al, | F.D. 114, | |
| Frank Gardner, | F.D. 142 | |
| Jordan Barnes, | F.D. 150, | |
| Sarah Brown, et al, | F.D. 161, | |
| Minnie Barnes, | F.D. 181, | |
| Maggie Hill, et al, | F.D. 182, | |

The Honorable,

The Secretary of the Interior,

Sir:

I have the honor to transmit herewith the record of proceedings had before the Commission to the Five Civilized Tribes in the above consolidated cases of Martha Albert et al., affecting the rights of thirty-one applicants for enrollment as Cherokee freedmen, the Commission by its decision, dated January 11, 1904, in

mied the application of all the applicants in the above named cases, to be enrolled as Cherokee freedmen.

The record shows that applications for enrollment as Cherokee freedmen were made to said Commission by Martha Albert for herself and minor children, [redacted] and [redacted] Albert; by Robert Barnes for himself; by Lula Knalls for herself andminor children, Sarah French and Fred E. Knalls; by Nancy Berkum for herself and minor children, Annie Berkum and Walter Berkum; by Henry Albert for himself and minor children, Harry Albert and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes for himself and minor child, Sussie A. Barnes, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie White and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Anna White; by Charles McLain forhis wife, Malinda McLain and his minor children, Samuel, Nila, Christian, Charles, Tuomer and Jennette McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown forherself and minor child, Maggie Williams; by Minnie Barnes for herself; by George C. Hall for his wife Maggie

Bell, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell. Claimants base their contention for a right to be enrolled as Cherokee freedmen upon the claim made that the principal applicant Martha Albert and her sister, Jennie Barnes, now deceased, from whom the other applicants claim descent, were at the commencement of the War of the Rebellion the slaves of one Johnson Whitmire, a Cherokee citizen, that during the war these alleged slaves, Martha Albert and Jennie Barnes went South to Red river in the Choctaw Nation where they remained until the fall of 1866 when they claim to have returned with one Ellis Harlin to the Cherokee Nation and settled with him on the Cale Starr place near Cherokee Junction. The evidence adduced shows that Johnson Whitmire and George Whitmire, brothers and Cherokee citizens, owned before the war several slaves, designated as the "Whitmire darkies". The attempt to identify Martha Albert and Jennie Barnes as one of the "Whitmire darkies" at the commencement of the war has signally failed.

Watt Whitmire, son of Johnson Whitmire, who claims to have known the names of all the slaves of his father, testified that he had no recollection of any two female girl slaves named Martha and Jennie and can not even recall the fact that his father ever owned a slave named Nancy Whitmire, the mother of said girls. Harry Still their master was George Whitmire, brother to Johnson Whitmire who only lived four miles distant and

knew all the colored people raised by Johnson Whitmire; testified positively that Johnson Whitmire did not own a slave named Nancy Whitmire nor a slave named Martha Whitmire. J. W. Alberty who lived in the Going Snake District, Cherokee Nation before the war and who well knew Johnson Whitmire from whom he lived a distance of ten or twelve miles, testified that the Whitmire boys, George Whitmire and Johnson Whitmire, at the time they divided up their property in 1847 sold a slave named Nancy whitmire with her whole family to a man named Billingham who moved them with his family right across the line into Arkansas at a town called Dutch Town or Salem where he remained until he moved to Texas in 1850-1; that he knew the darkies Twitter after Billingham got them than I did before" and that Billingham only lived five miles from where witness then lived. It is evident that the principal applicant Martha Albert and her sister Jennie Barnes were living in Arkansas instead of the Cherokee Nation at the close of the war as Jennie Barnes' husband testifing that he married her in November, 1866, at Fort Smith, Arkansas, where it appears Jennie Barnes was hired out and where her husband worked much of his time after marriage. Martha Albert claims to have married her husband in the Cherokee Nation during the war while her husband denies having married her until after his return to the Cherokee Nation. The death of Nancy Whitmire the mother of the principal applicant Martha Albert is shown to have occurred in 1866 but the place of her burial is not definitely shown. The belief that the principal applicant, Martha Albert was living in Arkansas and not in the Cherokee Nation as alleged by her, is further strengthened by the testimony of Mrs. Ruth Hunt

nee Ruth Harlin and Mrs. Emma Finley nee Emma Harlin, daughters of Ellis Harlin with whom it is claimed Nancy Whitmire and her two daughters, Martha and Jennie returned from the Choctaw Nation to the Cherokee Nation in November 1866. Mrs. Hunt and Mrs. Finley testify positively to the fact that their father Ellis Harlin did not return to the Cherokee Nation until February or March 1867, that no colored people returned in his company, that the first time they ever saw Martha Albert was in the "summer of 1867" when their father "went over in Arkansas somewhere towards Van Buren and hired the man to come and work", that the man's name was Albert and his wife's name was Martha, that neither the man or his wife ever claimed to have ever been the slaves of Johnson Whitmire whom witnesses knew before the war, nor did either claim to be Cherokee freedmen that they ever heard of, until the roll was taken at Vinita in 1896 and applicants are identified as former hired help. John Mullen testified that Martha Albert's husband told him "he found her at the Harlin place." If that be true and Martha Albert asserts that on her return she first settled on the Cole Starr place on which Ellis Harlin lived it is evident that she did not return to the Cherokee Nation until the "summer of 1867." In view of all the facts and circumstances of this case, this office is of the opinion that the principal applicant Martha Albert and her sister Jennie Barnes nee Whitmire, of whom the other applicants claim to be descendants, were not the slaves of Cherokee citizens at the commencement of the war of the Rebellion nor were they ever subsequently in the Cherokee Nation at any

commencement of the rebellion and even had they been, which is denied, it is shown that they went out of the Cherokee Nation and did not return thereto prior to February 11, 1867, in contravention of the treaty of July 19, 1866, which provides:

"All freedmen who have been liberated by voluntary act of "their former owners or by law, as well as all free colored "persons who were in the countryat the commencement of the "rebellion and are now residents therein, or who may return "within six months, and their descendants; shall have all the "rights of native Cherokees."

As the burden of proof lies upon claimants to establish their rights to recognition as Cherokee freedmen under the provisions of the treaty of July 19, 1866, and as they have failed to bring themselves within its purview, it follows that all of the [redacted] applications for enrollment as Cherokee freedmen must be denied.

We come now to the discussion of another point involved. It appears of record that the names of Martha Albert and her minor children Elijah and Ida are found on the Kerns-Clifton roll while the names of several of the descendants are found upon the Wallace roll. None of the applicants names are to be found upon the authenticated roll of 1880 nor upon the census roll of 1896.

Attorney for applicants contends that as the name of Martha Albert and her minor children, Elijah and Ida appear upon the Kerns-Clifton roll, that such fact is conclusive of their rights as Cherokee freedmen and pleads res adjudicata to any action by the Commission. Such contention cannot be maintained.

Congress by Act of June 28, 1898, Sec.21, directed the Commission to the Five Civilized Tribes as follows:

"It shall make a roll of Cherokee freedmen in strict "compliance with the decree of the Court of Claims rendered the "third day of February eighteen hundred and ninety six."

The Court in its decree of February 3, 1896, (see P.4), instructed said Commission as follows:

"The said commissioners in ascertaining the identity of "the freedmen entitled to share under the decree, shall accept "what is known as the authenticated Cherokee roll, the same "now being on file in the office of the Secretary of the Interior, "having been furnished to him and purporting to have been taken "by the Cherokee Nation in 1880 for the purpose of showing the "number of freedmen then entitled to citizenship in the said "nation under the terms of the treaty between the United States "and the Cherokee Nation hereinbefore referred to, and their "descendants, and no evidence shall be accepted by said Commission "tending to disprove the citizenship of any of the persons "whose names appear upon said roll", and supplementary thereto, Sec. 21, of the Act of June 28, 1898, states squarely the proposition that the roll of Cherokee citizens of 1880 (not including freedmen) is "the only roll intended to be confirmed by this and preceding acts of Congress", thus in effect declaring that the plea of res adjudicata can not prevail unless the name of the applicant appears upon the authenticated roll of 1880.

which is not here claimed. Neither the fact of claimant's name appearing upon the Kern-Clifton roll nor the fact of the names of her descendants appearing upon the Wallace roll, constituted any bar to further action by the commission, as the Commission was expressly empowered by Sec.21 of the Act of June 28,1898, to "investigate the right of all other persons whose names are found "on any other rolls and omit all such as may have been placed "thereon by fraud or without authority of law, enrolling only such "as may have lawful right thereto." Thus the Commission was left free to act, as upon a new inquiry, to determine what freedmen, omitted from the roll of 1880 but "whose names are found on any other rolls" are entitled to the benefit of article 2? of the treaty of 1866. For the foregoing reasons, I concur in the opinion of the Commission that the applications for enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Burney, Lola Bruner, Sarah Bruner, Fred E. Bruner, Henry Burton, Annie Burton, Walter Burton, Henry Albert, Harry Albert, Raymond Albert, Leroy Albert, John Barnes, Minnie A. Barnes, Rena L. Barnes, Harry Albert, Lillie White, Mattie White, Henry White, Anna White, Malinda McLain, Samuel McLain, Ella McLain, Christina McLain, Charles McLain, Turner McLain, Jeremiah McLain, Frank Anderson, Jerome Barnes, Minnie Bell and George W. Bell, as freedmen [illegible]

should be denied under the provisions of Sec. 2 of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is recommended that the decision of the Commissioner thereon, dated January 11, 1904, be affirmed.

Very respectfully,

A. C. Tanner,

Acting Commissioner.

Cherokee Freedmen

D.-99.

Muskogee, Indian Territory, June 28, 1904.

Robert Barnes,

Foreman, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself as a Cherokee Freedman, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Copy

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BREECKINRIDGE.

WM. O. BEALL,
SECRETARY.

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee Freedmen
D-42 et al.

Muskogee, Indian Territory, June 28, 1904.

A. S. McRae,
Attorney for Martha Albert, et al.,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for enrollment of Martha, Elijah, Ida, Albert; Robert Barnes; Lula Knalls, Sarah French Fred E. Knalls; Henry, Harry, Raymond, Lewey, Albert; John, Gussie A, John A., Barnes; Jerry Albert; Lillie, Mattie, Nancy, Amos, White; Malinda, Samuel, Ella, Charles, Turner, Jennetta, Christiana, McLain; Frank Gardner; Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George L., Bell, Nancy, Annie, Walter, Borkum; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

W-68 et al.

Muskogee, Indian Territory, June 30, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha, Elijah and Ida Alberty; Robert Barnes; Lula Knolls, Sarah French, and Fred E. Knolls; Nancy, Annie and Walter Perkins; Henry, Harry, Raymond and Lewey Alberty; John, Francis A., and John A., Barnes; Perry Alberty; Lillie, Mattie, Nancy, and Amos White; Malinda, Samuel, Nile, Charles, Turner, Jeremiah, Christiana, Melinda; Frank Gardner; Jerome Barnes; Sarah Brown, Maggie Williams; Nancy Barnes, Maggie, George A. Nelly; was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Commissioner in Charge.

COPY.

Cherokee Freedmen

R-419.

Muskogee, Indian Territory, April 8, 1905.

Robert Barnes,

Foreman, Indian Territory.

Dear Sir:

In the matter of your application for enrollment as a Cherokee freedman, you are advised that the Commission is in receipt of departmental letter of March 28, 1905 (I.T.D. 1332-1905), remanding this case for rehearing and readjudication.

You are, therefore, hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as you may desire in the matter of your said application. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED). T. B. Needles.
Commissioner in Charge.

Incl. S-42.
Register.

COPY.

Cherokee Freedmen

R-418, et al.

Muskogee, Indian Territory, April 8, 1905.

Veal & London,

Attorneys for Martha Albert, et al.,

Fort Smith, Arkansas.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1352-1905), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED) T. B. Needles.
Commissioner in Charge.

Encl. S-61.
Register.

COPY.

Cherokee Freedmen

R-412, et al.,

Muskogee, Indian Territory, April 8, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that this Commission is in receipt of departmental letter of March 28, 1905 (I.T.D. 1352-1905), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED). T. B. Needles.

Commissioner in Charge.

Impl. R-412

COPY.

Cherokee Freedmen R 418 et al

Muskogee, Indian Territory, July 24, 1906

The Commissioner,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment as Cherokee Freedmen of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Vinson, Sarah Brown, Fred M. Ehalls, Nancy Berton, Annie Berton, Walter Benton Henry Albert, Harry Albert, Raymond Albert, Lenny Albert, John Barnes, Cassie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Henry White, Anna White, Malinda McKain, Samuel McKain, Mina McKain, Christiana McKain, Charles McKain, Turner McKain, Jennette McKain, Hattie McKain, Frank Gardner, Jackson Barnes, Sarah Brown, Maggie Williams, Nicole Barnes, Maggie Bell and George L. Bell, inclosing the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting said applications.

On January 11, 1904, the Commissioner to the Five Civilized Tribes rendered his decision denying said applicants,

Respectfully,

[illegible] Indian Affairs, rights to enrollment were not in that line considered, and on June 21, 1904 (I.T.), supplemental decision was affirmed by the Department, on March 16, 1905 (I.T.D. 1330-1905), this case was re-opened by the Department, and returned for further hearing and readjudication.

Respectfully,

SIGNED Tams Bixby
Commissioner

Through the
Commissioner of Indian Affairs.

Cherokee Freedman
R 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1905

Neal and London,
Attorneys for Martha Albert, et al.,
Fort Smith, Arkansas.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al, C.F.R. 418, Robert Barnes, C.F.R. 419, Lula Khalil, et al., C.F.R. 420, Nancy Borum et al., C.F.R. 421, Henry Albert et al., C.F.R. 422, John Barnes et al., C.F.R. 423, Jerry Albert, C.F.R. 423, Lillie White, et al., C.F.R. 424, Malinda McLain et al., C.F.R. 425, Frank Gardner, C.F.R. 426, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R., 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Encl. and Landmark.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Tams Bixby.
Commissioner

Encl. 1-10

Cherokee Freedmen
R 416 et al.

COPY.

Muskogee, Indian Territory, July 24, 1905

Bell, Hastings and Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applications for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al., C.F.R. 416, Robert Barnes, C.F.R. 419, Lula Knalls et al., C.F.R. 420 , Nancy Berkum et al., C.F.R. 426, Nancy Albert et al., C.F.R. 422, John Barnes et al., C.F.R. 423, Jerry Albert, C.F.R. 425, Lillie White et al., C.F.R. 424, Malinda McNair et al., C.F.R. 425, Frank Gardner, C.F.R. 430, Joshua Barnes C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C. F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

[redacted]

[redacted] [redacted] [redacted] [

Cherokee Freedman
R-419

COPY.

Muskogee, Indian Territory, July 24, 1906

Robert Barnes ,

Foreman, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1906, denying your application for enrollment as a Cherokee freedman. There has heretofore been furnished your attorneys, Neal and Lenden, Fort Smith, Arkansas, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

James Bixby.

(SIGNED).

Incl. R 24.

Commissioner

Cherokee Freedman
R-419

COPY.

Muskogee, Indian Territory, July 24, 1906

Robert Barnes,

Foreman, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1906, denying your application for enrollment as a Cherokee freedman. There has heretofore been furnished your attorneys, Neal and London, Fort Smith, Arkansas, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Tams Bixby.

Commissioner.

Incl. R 24.

Cherokee Freedmen
C 413 et al.

COPY.

Muskogee, Indian Territory, July 24, 1906

Neal and London,
Attorneys for Martha Albert, et al.,
Fort Smith, Arkansas.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1906, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al. C.F.R. 416, Robert Harris, C.F.R. 419, Lula Knolls, et al., C.F.R. 420, Nancy Bottom et al., C.F.R. 422, Mary Albert et al., C.F.R. 423, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 425, Willis White, et al., C.F.R. 424, Malinda Nolain et al., C.F.R. 426, Frank Gardner, C.F.R. 427, Joshua Barnes, C.F.R. 428, Sarah Brown et al., C.F.R. 429, Minnie Barnes, C.F.R., 430, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

[illegible] and Lockwood.

The pleading, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

[illegible] Jesse Bixby.
[illegible]

[illegible], 1915

Cherokee Freedmen
R 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1905

Bell, Hastings and Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al., C.F.R. 418, Robert Barnes, C.F.R. 419, Lula Knalls et al., C.F.R. 420 , Nancy Berkum et al., C.F.R. 425, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White et al., C.F.R. 424, Malinda McNair et al., C.F.R. 426, Frank Gardner, C.F.R. 430, Joshua Barnes C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C. F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

[illegible] Meetings is announced.

The business, with the record of proceedings had in this case, has this day been transmitted to the secretary of the Council for the review and decision. The action of the Assistant will be duly known at any time at this office in pursuance of the above

[illegible].

Signed: Jamie Bixby

[illegible]

-COPY- S.R.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

D.C. 22958.
I.T.D. 4732-1904.
1239-1906.
8769- "
10230- "
L.R.S.

June 2, 1906.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

July 24, 1905, you transmitted the remanded record with your readjudication in the matter of the consolidated applications for the enrollment of Martha Albert et al. as Cherokee freedmen, including your decision of same date, adverse to all the applicants.

August 12, 1905, the Acting Commissioner of Indian Affairs reporting thereon, recommended that your decision dated July 24, 1905, adverse to all the applicants named in his said letter, be approved. A copy of his letter, including the names of applicants affected by this decision, is inclosed.

The Department concurs in the recommendation made and your decision dated July 24, 1905, denying the application for the enrollment of Martha Albert and others named in Indian Office letter of August 12, 1905, is hereby affirmed.

A motion for review of said decision filed with the

[redacted]

Cherokee Freed-
men R 419

COPY.

Muskogee, Indian Territory, June 15, 1906.

Robert Barnes,

Foreman, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting, among others, application for your enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion for review of your case filed September 7, 1905, is denied.

Respectfully,

Tams Bixby.

Commissioner.

MMP

Cherokee Freedmen
K 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Bliss & Bulger,
Attorneys for Martha Elbert,
Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Elbert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that the motion filed by you September 7, 1905 for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Tams Bixby.
Commissioner.

Incl. P-17
MKF

Cherokee Freedmen
R 416

COPY.

Muskogee, Indian Territory, June 15, 1906.

Neal & London,
Attorneys for Martha Albert,
Ft. Smith, Arkansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Tams Bixby.
Commissioner.

Encl.P-15
WMP

Cherokee Freedmen R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 8, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED.

Tams Bixby
Commissioner.

Incl.P-16

F099

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
APR 18 1901

ACTING CHAIRMAN

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date APR 18 1901

Post Office

District Leg

1. Name Robert Barnes Age 33

Owner's name Citizenship

Year [redacted] Page [redacted] No. [redacted] District [redacted]

Parents:

Father Sam Barnes Citizenship Cad

Mother Jennie Barnes Citizenship Cad Dead

2. Name of wife Age

Owners name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

DOUBTFUL

3. Year Page No. Dist.
4. Year Page No. Dist.
5. Year Page No. Dist.
6. Year Page No. Dist.
7. Year Page No. Dist.
8. Year Page No. Dist.
9. Year Page No. Dist.
10. Year Page No. Dist.
11. Year Page No. Dist.
12. Year Page No. Dist.

Application made by Nowell Stenographer Green M. D

(No Enrollment)

Doubtful

FD99

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mr. Robert Barnes,
Foreman, I.T.
Cherokee F-D-99
Register.

Cher. Fr. R. 420

See Cher. Fr. R. 418, 419
421, 491

Cher. Fr. R. 420

Report of [illegible]

[illegible]

[illegible]

[

To be filed in the case of Lula Knalls, Cherokee Freedman, D 100.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 10, 1901.

In the matter of the application of Martha Albert for the enrollment of herself and two children as Cherokee Freedmen; being sworn and examined by Commissioner Needles, she testified as follows:

Q What is your name? A Martha Albert.
Q How old are you? AAbout 54 or 5 years old.
Q What is your post-office address? A Melvin.
Q What district do you live in? AI live in Tahlequah District now, but I have been living in Sequoyah.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Did you ever apply to be enrolled as a Freedman of any other tribe or nation? A No sir.
Q Have you been recogized by the Cherokee authorities as a Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A I don't know.
Q Who do you want to enroll besids yourself? A I have got two children.
Q What are the names of your children? A Elijah Albert, 19 years old. A Ida Albert, 10 years old.
Q Are you married? A Yes sir.
Q What is your husband's name? A Holly Albert.
Q Is he a citizen? A Well, he has been raised by them.
Q Is he living? A Yes sir.
Q Where is he? A He is down town.
Q Were you a slave? A Yes sir.
Q Who was your owner's name? AJohnson Whitmire.
Q Where were you at the beginning of the war between the Confederacy and the United States? A Goingsnake.
Q Were you taken out of the nation during the war? A Far as Red River.
Q This side or the other side of Red River? A This side.
Q When did you come back? A In '66.
Q You have been living down here ever since '66? A Yes sir.
Q What was your name before you married were married? A I went by my owner's name, Martha Whitmire, I always goes by the name of Mat now.
Q Your name though is Martha A Yes sir.
Q Have you ever lived in Coowescoowee District? A No sir.
Q What is the reason your name aint on the roll of 1880? A I don't know; you know how ignorant peo ple was, didn't know how to go at such business.
Q You say you were a slave of Johnson Whitmire? AYes sir.
Q And that you came back to the Cherokee Nation in '66? A Yes sir.
Q You sure it was '66? A Yes sir.
Q You think it wasn't '76? A No sir, '66.
Q You wasn't here in '65? A No sir.

Examined by Cherokee Representative, James Davenport:

Q Who did you come back to the Cherokee Nation with when you came back? A With Ellis Harlin.
Q Where did you go first when you came back? A I stopped right down on the Cale Starr place where the Cherokee Junction is now?
Q Stopped on the Arkansas side didn't you? A No sir, I didn't.
Q How long did you live in yt, Smith? A Never lived in Ft. Smith any.
Q How long did you stay there? A I staid there 2 years, and then went to Lee's Creek.
Q Who did you live with there? A Cherokee family there, named Addison, and Mrs. Franklin and All of them.

Q Where was Hickory Starr living at that time? A In Flint.
Q You didn't go up to Flint? A No sir.
Q Well, did you go to Goingsnake District? A No sir.
Q You just went to Sequoyah District and remained there? A Yes sir.

Examined by Commissioner Needles.

Q Have you got anybody here that knows you and knows you were here in '66? A Yes sir, Mandy Benton and John Melton.

JOHN MELTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A John Melton.
Q How old are you? A 64
Q What is your post-office address? A Benge.
Q Are you a Cherokee Freedman? A Yes sir.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q You know Mattie Albert? A Yes sir.
Q Was she a slave during the war or before the war? A I don't know.
Q When did you frst know her? A About '67, early in '67; I saw her husband in '66 sometime, and had a talk with him; he said he found her at the Harlin place; I often heard talk of them being down there, but I never see them for a few months after.
Q When did you first see her? A Early in '67.
Q Early as January? A No sir.
Q Sometime in the spring? A Yes sir, along in the spring.

Examined by Cherokee Representative, James Davenport:

Q You don't remember what time in '67 you saw her? A No sir, not exactly.
Q You don't know where they were during the war? A No sir.

MANDY BENTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Mandy Benton.
Q How old are you? Mandy? A About 70.
Q What is your post-office? A Benge.
Q You are a Cherokee Freedman are you? A Yes sir.
Q You know Mattie Albert? A I have been knowing her ever since the surrender.
Q You know where she was at the close of the war between the Confederacy and the United States? A No sir, I don't think I do.
Q Where did you first get acquainted with her? A On the Harlin place.
Q What year was that? A '66.
Q Was she there in '66? A Yes sir.
Q You know whether she had been a slave or not? A Yes sir, she was a slave.
Q You know who her owner was? A Whitmire.

Examined by Cherokee Representative, James Davenport:

Q What makes you remember that it was in '66 when you first got acquainted with her? A Well, just by paying attention to others talking I reckon, and knowing it was that time.
Q How long after the surrender was it you got acquainted with her? A Well, really I don't know.

Q Was it two years or three years? A It might have been a year and maybe not so long; I don't remember.
Q Where was she living when you got acquainted with her?
A At the Harlin place.
Q Where is the Harlin place, I don't know Mandy? A It is in Sequoyah.
Q With whom was she living at that time? A With her husband and her children.
Q How many children had she? A I don't know how many children she had.
Q How far were you living from where she was living at that time?
A I guess it's about very near two miles.
Q You remember any of the Cherokee families living in that locality where she was living? A No.
Q You don't remember anything about it except it was in '66 you got acquainted with her? A Emma Harlin was living there then I think, If I mistake not.
Q Was Cale Starr living there? A I don't know- I remember--
Q You know Cale Starr? A Yes sir. I want to would like to get it straight; I tell you I have had so much trouble since that time I don't remember.
Q You don't know whether it was '66 or '76? A It was '66.

Examined by Cherokee Representative, W.W.Hastings:

Q It was before the treaty was it aunty that you got acquainted with her? A I guess it was.
Q Now, aunty, you don't know anything about years do you? A I forget them.
Q You didn't know anything about years then did you? A Oh I guess I was there; I know a little something about it.
Q What year is this? A Now I disremember.

Examined by Commissioner Needles:

Q You are pretty positive that you saw this woman in '66?
A I sure is.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not identified theron.
1896 census roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined, and applicants identified thereon as follows:

page 159 #3934 Mattie Albert, Sequoyah District;
page 159 #3936 Elijah Albert, Sequoyah District;
page 159 #3937 Ida Albert, Sequoyah District.

Q Have these children always lived in the Cherokee Nation?
A Born and raised here.

Com'r Needles: The name of Mattie Albert and her children Elijah and Ida are found upon the Kerns-Clifton roll; their names do not appear upon the authenticated roll of 1880 nor the census roll of 1896; they are duly identified; now comes the Cherokee Nation and protests against their enrollment, consequently, final judgment will be suspended as to the enrollment of said Mattie and her children and their names will be placed upon a doubtful card.

M.B.Green, being first duly sworn, stated that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in the case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this April 24, 1901.

Commissioner.

DEPARTMENT OF STATE
OFFICE OF THE SECRETARY
MISSION TO THE FIVE CAPITALS
FILED
APR 24 1981
ACTING CHAIRMAN

To be filed with case of Lula Knalls, Cherokee Freedman, D 100.

SUPPLEMENTAL: D 42.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Martha Albert et al for enrollment as Cherokee Freedmen;
Albert johnson, being sworn and examined by Commissioner Brackinridge, testified as follows:

Q Give me your full name? A Albert Johnson.
Q How old are you? A I am 43
Q What is your post-office? A Benge.
Q In what district do you live? A Sequoyah.
Q You want to give some testimony in the case of Martha Albert and her children? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life, with the exception of going out into the Choctaw Nation during the war.
Q At what time did you come back to the Cherokee Nation? A '65.
Q And you have lived here ever since? A Yes sir; I have been right in the Territory ever since.
Q Do you know Martha Albert? A Well, yes sir, I do to some extent.
Q How far does she live from you? A She lived right by us.
Q At one time? A Yes sir.
Q When was that? A Oh that has been I reckon about 24 or 5 years ago sin ce she lived right by us, I guess; I wont say that for certain.
Q What was her name in that day? A Well she went by Mattie Albert.
Q Do you know what her name was before it was Albert? A No sir, I couldn't say just what her name was, because I didn't know.
Q Where did she live before that time, 24 or 5 years ago, when you and she lived close together? A I am going to tell you just like I know; I aint going to tell you nothing more than that; they said she lived up on Lee's Creek; I don't know that.
Q You have no knowledge of your own? A Nosir, not as to where abouts she was living at all.
Q So of your own knowledge, except for hearsay, you don't know anything more than 24 or 5 years ago, is that so? A Yes sir.
Q Your first personal acquaintance with her was 24 or 25 years ago, as near as you can place it now? A Yes sir.
Q How old were you when you first knew her? AI guess I must have been about 17 or 18 years old; I guess I was, I don't know exactly.
Q You were most a young man? AYes sir.

Examined by Cherokee Representative, W.W.Hastings:

Q How far, Albert, did you live from Lee's Creek? A I lived 10 miles from Lee's Creek.
Q Yet you never saw her before that time? A No sir.

ANDY CROSSLAND, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Andy Crossland.
Q How old are you? A About 74.
Q What is your post-office? A Mc Kee.
Q In what district do you live? A Illinois District.
Q You want to give testimony in the case of Martha Albert and children? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been here all the time, born here.
Q Were you in the Cherokee Nation during the Civil War? A Yes sir

Q All the time during the war? A Yes sir, I was a soldier.
Q When did you begin soldiering? A I can't tell you; I was a soldier.
Q What command were you in? A Cherokee.
Q In the Union Army? A Home Guard.
Q Were you Home Guard on the Union side or the Confederate side?
Q Confederate side.
Q Well, then, you quit soldiering of course when the war closed?
A Yes sir.
Q Did you surrender? A Yes sir.
Q Where did you surrender? A Right here at Ft. Gibson.
Q When did you first know Martha Albert? A After the war.
Q Where did you live before the war? A Down in Sequoyah District.
Q Were you a slave in those days? A Yes sir.
Q To whom did you belong, did you belong to a man named Crossland?
A Yes, his wife.
Q What was her husband's name? A John.
Q You were paroled right here at Ft, Gibson? A Yes sir.
Q Where did John Crossland and his wife live? A In Sequoyah District.
Q Near what town? A Close to Redland.
Q Who did Martha Albert belong to in old times? she was a slave in old times was she? A I couldn't tell you.
Q You don't know about that? A No sir.
Q You don't know then, of course, where she lived back before the war? A He used to live there in Flint.
Q Who are you talking about? A Martha.
Q You said he, you mean Martha Albert A Yes sir.
Q You say she must have lived in Flint, but you don't know?
A No.
Q When did you first see her? A Close to Ft. Smith on Cale Starr's place; had a place close to Stonewall, and I was going down towards Van Buren and I staid all night with her.
Q How did you happen to see her? A I staid all night with her.
Q Staid all night there? A Yes sir.
Q She was living on the plantation? A Yes sir, on Cale Starr's place.
Q She was a married woman then? A Yes sir.
Q You stopped at their house? A Yes sir.
Q What were you going to Van Buren for? A Taking some cattle.
Q You had gone to work? A Yes sir.
Q How long had you been living up here before you started that trip? A I had been living all the time.
Q But after you were paroled and the war was over, you went to work? A Yes, well I stopped down at Sand Town after peace was made.
Q You were in the Home Guard? A Yes sir.
Q And after the war was over you were paroled? A Yes sir.
Q And then you went to work? A Yes sir.
Q Who did you go to work for? A Just sometimes hired in a job of cattle, to Van Buren.
Q How long had you been working after the war before you went down to Van Buren after the war with that lot of cattle? A Three or four years.
Q Three or four years then, after the war was over, and you had been paroled, you went down to Van Buren with a lot of cattle?
A Yes sir.
Q And on that trip you stopped at this woman's house and staid all night with her family? A Yes sir.
Q And at that time you got acquainted with her? A Yes sir.
Q That's the first time you ever saw her? A Yes sir.
Q And you have no knowledge of her before that time? A Yes sir.
Q Well you never knew her before that time? A No sir.

Q Have you been knowing her off and on ever since? A Ever since.
Q So you don't know where she was before you met her at that time? A No sir.

ROSE ROGERS, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Rose Rogers.
Q How old are you? A I pronounce my age 56 years of age.
Q What is your post-office? A Locust Grove.
Q In what district do you live? A Saline.
Q You want to give some testimony in the case of Martha Albert and her children? A Just of her owners and where she lived.
Q How long have you lived in the Cherokee Nation? A I have been bred and born in Goingsnake District, I have been nowhere else.
Q Live d here all your life? A Yes sir, until I went south with my owners time of the war.
Q Where did you go? A Down in the Choctaw Nation.
Q You remember the first year when you went to the Choctaw Nation? A Yes sir, just when the war broke out we went to the Choctaw Nation.
Q And you came back when the war was over? A Yes sir.
Q Who did you belong to in th se days? A Cornelius Wright.
Q Who was it Martha Albert belonged to? A She belong d to Johnson Whitmire; her mother did.
Q Did she belong to johnson Whitmire herself? AYes sir, she belonged to johnson Whitmire; her mother and her mother's children; I was about 11 years old.
Q How far did Johnson Whitmire live from Cornelius Wright? A Five miles, on the mouth of Barron Fork, close to Pea Vine Cr ek.
Q Do you know where Martha Albertwas during the war? A No sir, I don't.
Q What do you know about her aft r the war? A I haven't seen her since the war until I met her here on Fourteen Mile Creek.
Q When was that? A Just last year; I saw her since she was a little girl.
Q So you haven't seen her since she went down to the Choctaw Nation during the war until you met her out here on the Creek last year? A Yes sir.
Q And that's all you know about her? A Yes sir. I knew where she was bred and born, on Barron Fork; she lived with Johnson Whitmire; there was two brothers of them, George Whitmire and Johnson Whitmire.
Q Did yousee her during the war? A No sir.
Q You don't know where she was taken? A No sir, but her people went south; they was in behind, so we went ahead of them; they located some where in the Choctaw nation, but I couldn't say where.
Q You don't know about that? A No sir.
Q Did you know her in that day, before the war? A Yes sir, we were children together; just lived five miles apart; I just wanted to identify her mother, who they belonged to; and they were not sold out; I am qualified; I want to state what I know.
Q You know she was born in the Cherokee Nation and went out during the war? A Yes sir.
Q And beyond that you don't know anything except when you met her about a year ago? A Yes sir. We was raised together; gathered beech nuts together.

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Martha Albert et al #up 4

M.D. Green, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof

M.D. Green

Subscribed and sworn to before me this April 24, 1901.

Commissioner.

Commissioner.

Suppose you were to point out to me the gentleman who is
the murderer, point him out. Strike that out. Withdraw
the question. Was the testimony in the case, be counsel to-
to the Commission to the effect that blood stains on the
clothing is a fact, and does it require the standpoint
knowledge of a chemist to detect it?

Yes sir.

Q. Are you familiar with the standard by which
examination is made?

A. Yes sir.

Q. Have you had that experience?

A. Yes sir.

Mr. Beecher.

---

To be filed in case of Eula Knalls D 100.

Department of the Interior.
Commission to the Five Civilized Tribes.
Ft. Gibson, I. T., April 18, 1901.

In the matter of the application of Martha Albert for enrollment as a Cherokee Freedman; she being sworn and examined by Commissioner Breckinridge, testified as follows:

Supplemental testimony.

Q Give me your full name. A Martha Albert.
Q How old are you? A I don't exactly know; I hold myself for about 57 years old.
Q What is your postoffice? A Melvin.
Q In what district do you live? A I live in Tahlequah District.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they all under 21 years of age? A No sir, they are all married but two.
Q Then you want to enroll those two? A Yes sir.
Q Have you a husband? A Yes sir.
Q Do you want to apply for his enrollment also? A No sir.
Q How long have you lived in the Cherokee Nation? A Been living here - I was born and raised here.
Q Lived here all your life? A Yes sir.
Q Have you applied before? A Yes sir, I didn't put my children on; I wasn't satisfied the way I went in for.
Q So you want to apply again? A Yes sir.
Q Why didn't you apply for your children when you applied before for yourself? A The witnesses couldn't stay.
Q You didn't have your evidence in good shape? A No sir.
Q I have here your enrollment card and it appears that you did apply for two children, one Elijah and one, Ida? A Yes sir.
Q Are those the names of your children? A Yes sir.
Q What you want to give now is some additional testimony? A Yes sir.
Q What witnesses do you want to introduce now? A Henry Brown and Andrew Crossland.

Henry Brown, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name. A Henry Brown.
Q How old are you? A I am supposed to be about 44 years old.
Q What is your postoffice? A Vian.
Q In what district do you live? A Illinois.
Q How long have you lived in the Cherokee Nation? A I lived here all my life, only the time of the war.
Q You were out during the war, were you? A Yes sir.
Q Where did you go? A Chickasaw Nation.
Q You lived in the Cherokee Nation before the war? A Yes sir.
Q Well you were quite a child during the war? A I was about 13 or 15 years old during the time of the war; maybe 16; I don't know my age exactly.
Q What time did you come back to the Cherokee Nation, the time during the war? A They said it was in the fall of '65.
Q You came from the Chickasaw Nation? A Choctaw rather.
Q Then you never were out of the Indian Territory during the war? A No sir.
Q Do you know an applicant here, Martha Albert? A She used to go by the name of Whitmire.
Q Is she known as Albert now? A Yes sir, by her husband now.
Q Did she belong to a man named Whitmire before the war? A That's what they claim they belonged to Whitmire.
Q Were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Brown.
Q What was Whitmire's full name, do you remember? A I don't know his full name.
Q Johnson Whitmire? A I heard that name, yes sir; I heard him

called by that name.
Q Well, now, in those days did you live near Whitmire's place? A No sir, I lived at that time in Canadian District.
Q How far from Whitmire's place? A That's - I don't know how many miles. They claimed beforethe war something like forty miles; I don't know.
Q You came back to the Cherokee Nation when? A In the fall of '65.
Q When did you first see Martha Albert, as she is called now, after you came back? A It was in '66 as near as I can remember; I saw her at old Jack Campbell's church house.
Q You can't be certain what year it was? A No sir, but I think it was in '66.
Q Have you known her pretty well ever since that time? A I have been seeing her off and on; I lived in Illinois and they used to live in Sequoyah.
Q Has she been living in the Cherokee Nation ever since you saw her then? A That is where I have been seeing her.
Q About how often would you see her, once a year or once every five or ten years? A I couldn't say how often; it wasn't often.
Q But you have seen her some times? A Yes sir, some since I come back after the war.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q Did you ever see this woman before the war? A No sir, never seen her before the war.
Q You never knew her then? A No sir.
Q The first time you ever saw her was after the war? A Yes sir.
Q And you never heard her personal name? A No sir.
Q You don't know that this woman was among them, the Whitmires? A No sir, I don't know.
Q I mean among them after the war when you saw her? A I only knew that they were Whitmire's darkies.
Q Did you know her personally? A No sir.
Q Did you know her after the war? A Yes sir, I saw her at this church.
Q The first time you saw the Whitmire darkies, you don't remember this woman personally except seeing her in the crowd? A I saw her with the Whitmire darkies.
Q Were they at the Church house there at that time? A Yessir.
Q Colored Church? A Yes sir.
Q Do you remember that this woman herself, individually, was among them? A No, only that they said they were Whitmires.
Q You don't remember this woman personally except the Whitmires generally that were there? A They said they was the Whitmire darkies.
Q Did you see this particular individual colored woman at that time in '66? A As near as I said it was '66, that was the day I saw her at the church as a Shitmire.
Q Did you see this particular woman? A Yes sir.
Q Do you think you saw her in '66? A As near as I can come to it.
Q You are not positive? A I am satisfieid that it was '66.
Q What makes you fix that date? A Because I think it must have been near that time. It was the time I moved on Canadian. I was living there.
Q You were living in Canadian then? A Yes sir.
Q What were you doing down there? A I was in the Court at Fort Smith.
Q Who was preaching there? A I didn't go there; I just happened to be around there and Henry Perryman.
Q You don't know who preached? A No sir.
Q You didn't know this woman before? A No sir.
Q Why was it that this woman among a whole crowd of darkies was pointed out to you and why do you remember? A Because I heard it was the Whitmire darkies.
Q There was a number of them? A She was a particular one he said was a Whitmire darkey.

Q What makes you remember that? A Because he said so.
Q Was she married then? A I don't know whether she was or not.
Q You don't remember of seeing her husband then? A No sir, I don't.
Q Where was that church? A Jack Town, this side of the river.
Q How far from the Payne place? A Six or seven miles this way from the river.
Q By Cherokee Junction? A Yes sir.
Q You don't know who she come back with? A No sir.
Q You don't know how long she's been back? A No sir.
Q What time of the year was it you saw her? A As near as I can say it was '66.
Q Spring, summer or fall? A Along in August of '66.

Commissioner-
Q You were a stranger down there in that neighborhood? A No, not exactly I knowed some of the people down there.
Q How far did you live from there? A 45 or 6 miles.
Q Had you ever lived in that neighborhood? A I used to stay there a while after the war by Dr. Campbell place.
Q Did you visit or live there? A When I come there, I came from Fort Smith and stopped at Campbell's.
Q How long did you stay there? A Several months.
Q Were you acquainted with many of the Whitmire darkies as you call them? A No more than just heard them as Whitmires when I was at the church.
Q And there were a lot of them there and they said they were Whitmire people? A Yes sir.
Q There seemed to be a lot of them? A This woman said she was a Whitmire and Charley Whitmire; they called them the Whitmire Darkies.
Q How long after that was it before you seen this woman again? A I couldn't say how long it was afterwards; it was some times afterwards.
Q Some years? A No years.
Q When were you down there again? A Several times after that.
Q You have been down there several times since that time you were at the church and the present day? A Yes sir, several times.
Q Well, about how long after being at the church before you went there again? A It must have been; I couldn't say, I stopped by Jacktown and would be on this side of the river. I can't say.
Q Were there a number of these Whitmire colored people down there?
Q They were acknowledged to be Whitmire pagans. They claim to be several of them; the ones I speak of is the one I saw that Sunday.
Q Were there quite a number of them? A They claim there was a good number of them.
Q You saw a good many who were claimed to be Whitmire people? A Yes sir, Whitmire darkies.
Q What impressed this woman on your mind? A Harry Foreman pointed her out to me as a Whitmire.
Q You weren't acquainted with her? A No sir, only saw her that Sunday.
Q He pointed her out and others as belonging to the Whitmire crowd? A Yes sir.
Q Do you think that made enough impression on your mind passing there to remember her during all this time, you living forty miles away? A I saw her since then; that wasn't the only time I saw her.
Q You can't say for certain what year it was you were down there?
A No sir, as near as I can remember, I claim it must have been '66.
Q And this is as far as you can go? A Yes sir, in being honest.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q I believe you stated that you attended Court at Fort Smith? A Yes sir.
Q What trial? A Brother Green.

4- M. A.

Q Was he tried at Fort Smith that year? A Yes sir.

Commissioner-
Q That is the year you claim you saw the women at this church? A Yes sir.
Q Remember we were talking about the year you saw the Whitmire people? A I think it was in '98.
Q I am not asking you about that, we are trying to locate what business you had in the Court at Fort Smith in the year that you were at the Church & what business took you to Fort Smith that particular year? A I couldn't say what year.
Q I never asked you about the year, I asked you about the business?
A As a witness.
Q In that case? A Green Lowry.

Examination by W. F. Hastings-
Q What Judge tried that case? A Judge Parker.
Q At Fort Smith? A Yes sir.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

Subscribed and sworn to before me this 26th day of April, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
APR 29 1901

Commissioner.

To be filed in case of Lula Knalls, Cherokee Freedman, D 100.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the applica ion of Robert Barnes for the enrollment of himself as a Cherokee Freedman; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Q Give me your full name? A Robert Barnes.
Q How old are you? A 33
Q What is your post-office? A Foreman.
Q In what district do you live? A Sequoyah.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A My youngest sister; all the children is grown but my sister.
My mother is dead; I am applying for my brothers and sisters.
Q Why don't they apply for themselves? A Well, I am putting in the case for us.
Q Are your brothers and sisters all of age? A Yes sir, all but one.
Q Since they are of age why don't they apply for themselves? A Well they will do that.
Com'r: The law requires that unless there is some very strong reason to the contrary.
Q You have one sister under age? A Yes sir.
Q Does she live with you? A Lives with my father.
Q Where is your father? A He is at home.
Q He should apply for his child? A He don't claim any right himself.
Q Yes but he is the father, and he should apply for his child.
Q You apply then for yourself: how long have you lived in the Cherokee Nation? A Always.
Q All your life? A Yes sir.
Q Give me the name of your father? A Sam Barnes.
Q He is alive? A Yes sir.
Q Give me the name of your mother? A Jennie Barnes.
Q Is she alive A No sir, she is dead.
Q How long has she been dead? A About ten years.
Q You say your father is not a Cherokee Freedman? A No sir.
Q Was your mother a Cherokee Freedman? A Yes sir.
Q You have never lived anywhere except in the Cherokee Nation?
A No sir.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

1896 census roll of citizens of the Cherokee Nation examined and name of applicant not identified thereon.

Kerns-Clifton pay roll of citizens of the Cherkee Nation examined and name of applicant not identified thereon.

Q You don't appear to be upon any roll of the Cherokee Nation?
A I am on the Wallace roll.
Q Could you have been enrolled under any other name? A No sir.
Q Has your mother lived with your father ever since they were married? A Yes sir.
Q Willie, Charley and Turner Barnes, are they your folks? A No sir
Q How old was your mother when she died? A I think she was about 42 or 3.
Q Where was your mother born? A In Goingsnake.
Q Was she a slave before the war? A Yes sir, said she was.
Q To whom did she belong? A Johnson Whitmire.
Q Where was she during the war A I don't know sir.
Q Where were you born? A I was born in Sequoyah District.
Q Do you know where your mother was in '66 or '67? A Why she said she was living down there near Cherokee station.

Q She was married to your father at that time? A Yes sir.

Com'r: Well, you see, so far we are without any evidence except hearsay evidence, that you have, about your mother being either a slave before the war, having been set free in the Nation in any way, and about where she was during the war, and when she got back; you see you were not born until '67, or '68, according to your age, and you are not on any roll, and you had better have your father come in and apply for this child, and give testimony also in your case; he may be able to throw some light on it.

Q Is there nowitness ~~that~~ you want to bring in? A Yes sir, Mat Albert.

MARTHA ALBERT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give your name there, please? A Martha Albert.
Q How old are you? A I am about 57 or 8 years old.
Q What is your post-office? A Melvin.
Q In what district do you live? A Live in Tahlequah District.
Q You want to give some evidence here in the application of Robert Barnes don't you, for enrollment? A Yes sir.
Q You have made an application for yourself and two children?
A Yes sir.
Com'r: This is D 42.)
Q A trouble in your own application appeared to be to establish when you came back to the Cherokee Nation after the war? A I came back here two months before the '66 treaty went off.
Q You know Robert Barnes do you? A Yes sir.
Q How long have you known him? A I have knowed him ever since he has been born; he was my sister's child.
Q Child of your sister, Jennie? A Yes sir.
Q She belonged to Johnson Whitmire? A Yes sir.
Q Were you and she taken out of the Cherokee Nation during the war? A We went to Red River in the Choctaw Nation.
Q You didn't go across the river? A No sir, we never crossed into Texas.
Q Was your sister there with you? A Yes sir.
Q And both of you belonged at that time to Johnson Whitmire, did you? A Yes sir.
Q Well did she come back with you? A Yes sir.
Q Johnson Whitmire brought you both back? A No sir, my father brought us back.
Q You and your sister came back together? A Yes sir.
Q What was the father doing down there? A Well we went south.
Q Was he working down there? A Yes sir.
Q On a plantation? A Yes sir. He was a free man; he always just dug wells around for people.
Q Your father was a free man? A Yes sir.
Q But your mother was a slave A Yes sir.
Q Did she come back with you and your sister? A Yes sir.
Q What business did you say your father did? A He dug wells and worked around for people.
Q And he brought your mother and both of you back? A Yes sir.
Q In what year did he bring you and your sister? A 1866 when I came back here.
Q What time of the year was it? A It was in the fall of the year.
Q Where did your sister locate when she came back? A She located down here close to Cherokee Junction.
Q Were you in the same neighborhood either? A Yes sir, right in the same yard.
Q Were you on a plantation or about the town? A I was on Cale Starr place.
Q On a farm? A Yes sir.

Q He is not living now, Cale Starr, is he? A I don't know.
Q Any of his children living? A I don't know.
Q Is his wife living? A I don't know that, neither; I have been living in Sequoyah.
Q Are there any of the people who were living there on that place at that time living now? A No sir, not on that place; there wasn't no one there but us working the farm, rented the place.
Q You and your sister were on that place? A Yes sir.
Q But there were no colored people on it but just you and your people? A Yes sir.
Q Well now how many people were in your family at that time, you and your sister and who else? A Me and my sister and our husbands.
Q Was her husband then living, Sam Barnes? A Yes sir.
Q And your husband, is he living? A Yes sir.
Q Has your husband testified in your case? A No sir.
Q Why didn't you bring your husband? A He is here some wheres.
Q Your sister's husband is not here is he? A No sir.
Q Did your husband go around the country digging wells after he got back? A My father.
Q Was he with you when you got back? A Yes sir, brought us back.
Q Did he go around the country digging wells? A No sir, he didn't dig any wells after he got back.
Q What did he do? A He farmed.
Q Was he living with you there on Mr. Starr's place? A Yes sir.
Q Your father is dead now? A Yes sir.
Q Who had farms there in that neighborhood? A Old Uncle Jack Campbell.
Q Is he alive? A No sir, he is dead.
Q Anybody else? A Yes sir, Dave Choate had a place right there joining.
Q Named Chouteau? A Named Choate, Cherokee.
Q Is he living? A I don't know.
Q Do you know anybody who is living now that was living in that neighborhood there and knew you all? A Yes sir.
Q Well give their names? A Eliza Franklin; it aint Franklin now; that was her name when I knew her; her name is Eliza McCrady now.
Q Is she about the room now? ANo sir, she is living down in Sequoyah; she is a Cherokee.

Examined by Cherokee Representative, W.W.Hastings:

Q Where were you married? A We married in slavery time; we married in the Choctaw Nation.
Q Your husband came back with you also? A Yes sir.
Q I thought you said your father brought you back? A Well my father was the leading one brought us back.
Q Where was your sister married? A She was married here under the Cherokee law.
Q She wasn't married down there? A No sir.
Q Her husband didn't come back with her? A No sir.
Q Where was Robert Barnes born? A Down in Sequoyah.
Q On what place? A Right there on the Cale Starr place.
Q That is how far from Pi, Smith? A About four miles.
Q And by the river, on this side? A Yes sir.
Q You say Cale Starr was living there at the time? A No sir, old man Ellis Hardin was living there.
Q He had a family? A Yes sir.
Q One of them named Emma? A Yes sir.
Q She was living there? A Yes sir.
Q Another one named Ruth? A That's right.
Q She was living there at that time? A Yes sir. And a boy named Dee.
Q And Dee was living there at that time? A Yes sir.
Q He knew your people now? A Yes sir.

Examined by Commissioner Breckinridge:

Q How many children have you? A I have got six.
Q Where was your oldest child born? A Born in Sequoyah.
Q After you got back after the war? A Yes sir.
Q How old is that child? A About 37 years old.
Q How long had you been married down in the Choctaw Nation when you got back? A We married time of the war.
Q Along towards the last of the war? A Yes Sir.
Q How long had you been married when your oldest child was born?
A I couldn't go to work to tell you about that.
Q Been several years had it? A Yes sir.
Q How long had you been back here when your oldest child was born?
A She was born in '67.
Q How long had you been back here when she was born? A Well I say she was born in '67.
Q Who attended on you at the time of the birth of that child? A The woman who attended on me is dead, Mandy Benton's mother.
Q Some of the old people living who remember when that child was born? A No sir, none that I know of; there wasn't no colored folks in there hardly then.
Q You don't remember how long you had been back in the Cherokee Nation when that child was born? A Yes sir.
Q How long? A She was born in '67.
Q I didn't ask you what year she was born in, I asked you how long you had been in the Cherokee Nation when that child was born?
A Well I tell you she was born the year after I come backhere.
Q The next year after you got back? A Yes sir.
Q Was the child born in the spring, summer or fall? A Born in January.
Q And what time of the year was it you got here? A I got here in the fall of 1866.
Q In the fall before the January this child was born? A Yes sir.

COLLY ALBERT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Colly Albert, is the way I always sign my name.
Q How old are you? A I am 61.
Q What is your post-office? A Melvin.
Q In what district do you live? A I live in Illinois District.
Q You want to give some testimony in the case of Robert Barnes do you, who has applied for enrollment? A Well, I can give some.
Q Well you are not here to apply for your own enrollment are you?
A No sir, not now; not at present.
Q Are you the husband of Martha Albert? A Yes sir.
(Com'r: Her case is D 42.)
Q Do you know Robert Barnes? A Yes sir.
Q How long have you known him? A I have been knowing him ever since he was born.
Q How long have you lived in the Cherokee Nation? A I have been raised and born here in the Cherokee Nation.
Q Were you a slave in old times? A Yes sir.
Q To whom did you belong? A Old lady Bushyhead, Nancy.
Q Where were you during the war? A I was down on Red River.
Q In the Choctaw Nation? A Yes sir.
Q Where did you live before that, on Nancy Bushyhead's place?
A Yes sir.
Q In what district was that? A In Goingsnake District.
Q You married yourwife, Martha, down there did you, on Red River?
A No sir, I married her after I come back; I lived with her but I didn't marry her until after we come back to the Cherokee Nation.
Q How long after you came back to the Cherokee Nation was it before you and she married? A About three years I guess; I joined the church and they wouldn't let me live in the church until I married.
Q Did you and she have any children until after you were married?

A Yes sir, she had two.
Q Two before you were married? A Yes sir.
Q That is, before you were married the way the church made you marry? A Yes sir.
Q You knew your wife's sister, Jennie A Yes sir.
Q She was married to Sam Barnes was she? A Yes sir.
Q Did you come back with your wife after the war when she came from the Choctaw Nation? A I come a little ahead of her; a few days.
Q Just a few days? A Yes sir, she come with her father.
Q Did her sister Jennie come withher? A Yes sir.
Q She and your wife came together? A Yes sir.
Q Her sister Jennie was the mother of this Robert Barnes? A Yes sir.
Q What were you doing down there in the Choctaw Nation, farming?
A Yes sir, worked on the farm awhile.
Q Well you were working on a farm all the tim weren't you? A Well sometimes I was driving a team.
Q Did you make a crop of cotton? A No sir, corn crop.
Q Where did you locate when you came back from the Choctaw Nation?
A Near Cherokee Station there on Caleb Starr's place.
Q What time of the year was it you got back there? A It was along in August sometime in August, I diaremember just what day in August it was, but we got back there in August.
Q You think that was in what year? A 1866.
Q What fixes that on your mind? A Well I kept count of how long the war run; I knowed what year the war come in on.
Q How long had the war been closed when you came back? A I come back next spring after the war closed.
Q You fixed it on your mind that way? A Yes sir, that's the way it was.
Q You know this woman, Jennie Barnes, mother of Robert Barnes, when did she belong to before the war? A I didn't know who she belonged to; I know who they always said she belonged to; she belonged to same man my wife did.
Q What was his name? A Johnson Whitmire; I never got personally acquainted with them until I got down there on Red River.
Q Was Jennie Barnes older or younger than your wife? A She was youngest, her mother and father said.
Q Was she married there in the Choctaw Nation? A No sir, I don't think she was until we come back to the Cherokee Nation I think.
Q Married after she got back? A Yes sir/ as well as I recollect, that's what they told me; I wasn't there when they married.
Q But you were seeing them all the time weren't you? A Yes sir.
Q Did you see her very soon after she was said to have been married? A She staid there with me awhile on the Caleb Starr place.
Q Where were you when she married? A I was on the Caleb Starr place.
Q Where was she when she married? A She was over in Ft. Smith I think, hired out.
Q And there is where she married Sam Barnes? A Yes sir, I think so.
Q How long wasxxx that after you had got back from the Choctaw Nation? A Itwas about one year I think, not quite a year; it was about sixmonths.
Q She staid with you awhile on the Starr place and then hired to do some work over at Ft. Smith and there married? A Yes sir.
Q And where did she live after that? A Lived up on Lees Creek there close by me.
Q How long did she stay at Ft. Smith? A I don't know exactly; not very long though; I don't recollect now just how long it was.
Q How long had she been married before you saw her; how long was it after her marriage that you saw her? A It was about two or three months I guess.
Q You saw her two or three months after she was married? A Yes sir
Q Where did you see her? A She come over to my house there on a visit; on the Caleb Starr place.

Q What creek was that you say she lived on at one time? A Lee's Creek.
Q How long had she been married when she began living on Lee's Creek? A Sh had been married as well as I can recollect, then about four or five years.
Q And she had quit work in Ft. Smith then had she, and gone to live on Lee's Creek? A Yes sir.
Q What was her husband doing all that time? A Why he was farming he went to farming after he come over into the Cherokee Nation.
Q But during that four or five years before he lived on Lee's Creek, you don't know what he was doing do you? A Yes sir, he moved over there and was hired out.
Q Moved over where? A The other side of Ft. Smith in the coal bank.
Q He worked there until he moved up on Lee's Creek? A Yes sir.
Q Now Sam Barnes, her husband, he makes no claim for himself as a Cherokee Freedman? A No sir, none as I known of.
Q He was working for wages up there about the coal bank I suppose? A Yes sir.
Q And after working there four or five years he then moved up on Lee's Creek, and went to farming? A Yes sir, he was living over here when he was working in the bank; he had moved before he went to work over there.
Q What was his wife doing all that time when he was working at the coal bank? A She was working in the field there with my and my folks; they lived about three or four hundred yards from me.
Q You said just now she had come from over there up to Lee's Creek? A She did after they were married.
Q You said she came up there four or five years after they were married, and now you say she had come before that and lived with you; which one of these can I rely on? A I said about five years he lived over here and went back to work the other side of Ft. Smith about five years after he was married.
Q He went back there about five years after he was married to work? A Yes sir.
Q Well then how long did he live over there after that? A After he had moved over here?
Q Yes.? A I don't know sir how long he worked; I couldn't tell exactly.
Q You now tell me that after he was married he came over here and worked four or five years and then went back to Arkansas and worked on a coal bank? A Yes sir.
Q That's what you tell me now is it? A Yes sir.
Q Well then how long did he work on a coal bank? A I couldn't tell you exactly how long he worked.
Q You told me awhile ago he worked four or five years on a coal bank? A No sir, I don't think I did; if I did I made a mistake.
Q How much was it you said, more or less? A It was less than that.
Q Whose coal bank was it? A It was called Jenny Lynn, over there about Huntington.
Q The town of Jenny Lynn? A Yes sir.
Q How long did he work over there about that coal bank off and on? A As well as I recollect it was about a year.
Q Not four or five years? A No sir.
Q Did he take his family along with him? A No sir, his family was over here living right by me.

Examined by Cherokee Representative, W.W.Hastings:

Q Who was living on the Cale Starr place at the time you were, immediately after you came back with your wife from the Choctaw Nation? A Ellis Harlin.
Q Did Ellis Harlin have some children living there? A He had two daughters.

Q What was their names? A Rutha and [illegible].
Q They were living on the place at that time? A Yes sir.
Q Did he have any boys? A Yes sir, had one named Oce.
Q What was the other one's name? A I forget the other's name; he didn't come around there none, the other one didn't.
Q They were living there at that time? A Yes sir.
Q They were single and unmarried and living there at the place at the time with their family? A Yes sir.
Q All of these children that you have mentioned? A Yes sir, all but Oce; I don't know whether he was married or not; he just come in and out; I don't know what he was; the girls though were single.

Com'r Breckinridge. The applicant states that he has lived in th Cherokee Nation all his life; he is now thirty-three years of age, but he is not identified on the roll of 1880 nor upon the roll of 1896 nor upon the Kerns-Clifton roll; his mother is said to have died some ten years ago, and she is not identified on the roll of 1880; the testimony relating to his mother tending to establish that she came to the Cherokee Nation within the period required by the treaty of 1866, is of an indefinite character; a sister of the applicant's mother is on Cherokee Freedman doubtful card number 42, and the testimony of the husband of that sister, Polly Albert, is conflicting in its character; while this application is not established in any satisfactory manner, yet at present it will be placed upon a doubtful card for further consideration of the evidence, and the final decision of the Commission will be made known to the applicant at his post-office address.

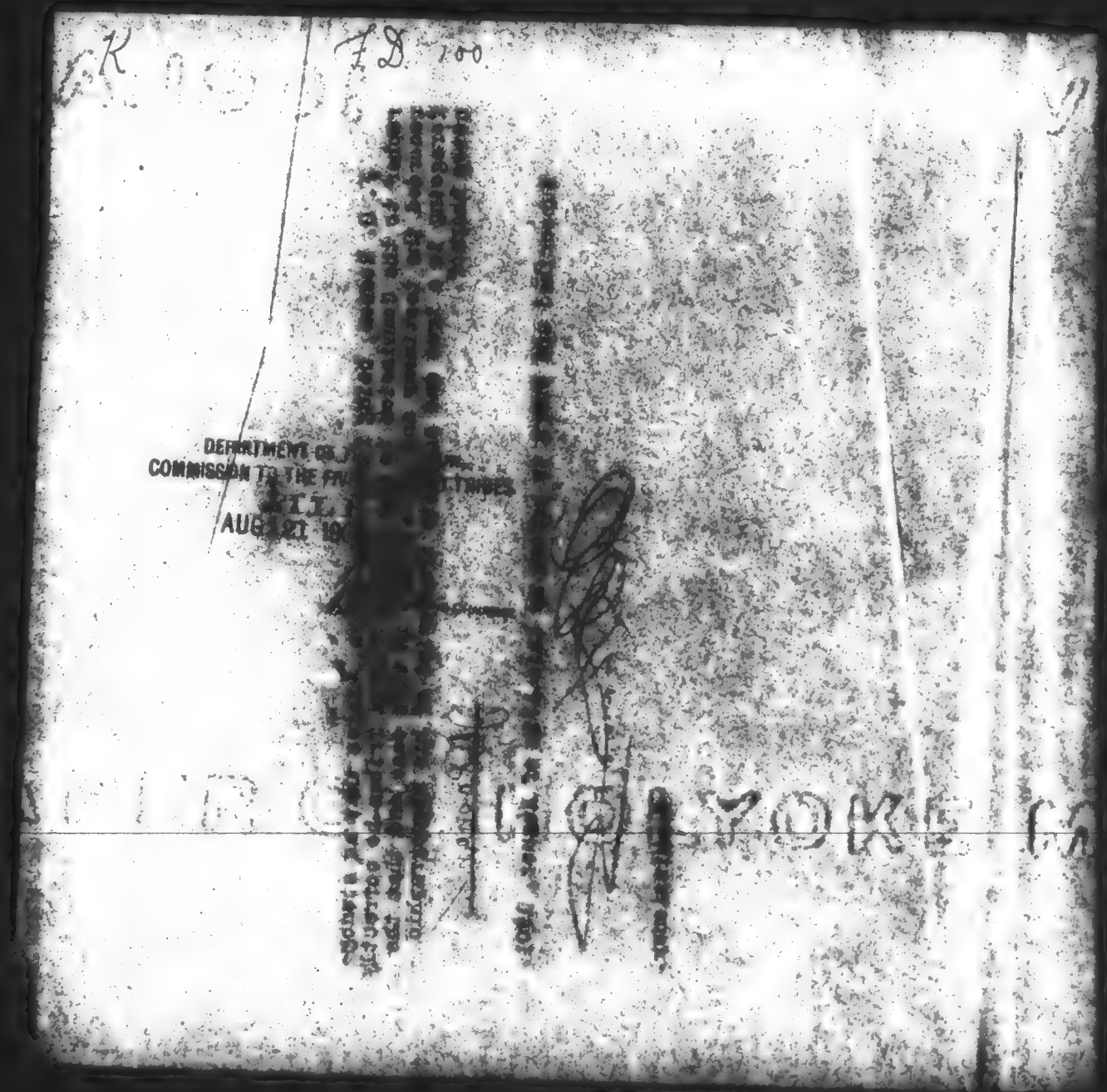
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M.D.Green, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this April 29, 1901.

Commissioner.


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To be filed with case of Lula Knalls, et al., C. F.B.#100.

# S U P P L E M E N T A L  T E S T I M O N Y .

F.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
MUSKOGEE, I.T., JAN 21st, 1902.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of Mar tha Albert, et al., as Cherokee Freedmen:

RUTH HUNT, being duly sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
A. S. McNeer, Attorney for applicants;
W. W. Hastings, Cherokee Representative.

Q What is your name? A Ruth Hunt.
Q How old are you? A 54.
Q What is your post office address? A Vinita.
By W. W. Hastings: Mrs. Hunt, what was your maiden name?
A Harlin.
Q What was your father's name? A Ellis Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Where did you go during the war of the Rebellion?
A Fort Smith, Arkansas.
Q After the war did you return to the Cherokee Nation? A Yes, sir.
Q When did you return to the Cherokee Nation? A 1867.
Q What time in the year? A It was either February or March. I don't remember which.
Q But '67? A Yes, sir.
Q Did any colored people return with you to the Cherokee Nation when you came back? A No, sir.
Q Did you return with your father? A Yes, sir.
Q To what point did you return? A About four miles this side of Fort Smith, on the line of Arkansas, about a quarter of a mile from the line, Arkansas line.
Q Did you know a colored woman by the name of Martha Albert who is the wife of Celly Albert? A There was a man worked for us we always called Albert, I don't know what his other name was, his wife was named Martha; he worked for us that summer we came back.
Q The summer of '67? A Yes, sir.
Q Did they return with you? A No, sir.
Q Were they over there in the place when you returned? A No, sir.
Q Do you know where they came from? A No, sir, I don't, but Pa went over in Arkansas somewhere and hired the man to come and work, but I don't remember where he got him. He had a man at work for us and the man quit and he went over somewhere and got this man, he got him in Arkansas somewhere towards Van Buren, but I don't know.
Q You brought no colored people back with you? A No, sir.
Q Did these people claim at that time to be Cherokee freedmen?
A I never heard that if they did I don't remember anything about that ever claiming.
Q Do you know what became of them after they left your place?
A No, sir, I never seen or heard tell of them until they was taking the roll of Vinita here before.
Q In 1896? A Yes, sir, that is the only time I have ever heard of them since.
Q You are a full-blood Cherokee by blood? A Yes, sir.
Q You reside on Vinita? A Yes, sir.

CROSS-EXAMINATION BY A. S. McNEER:

Q Mrs. Hunt, did you know the applicant, Nellie Albert, before the war? A Yes, sir.

Q Do you know her at all? A I don't know her only just as far back as 1867; I remember there was a man worked for us by the name of Albert, we called the woman Martha and the man Albert, they worked for us here during the summer of 1867, that is all I know about it.
Q You don't know whether she is the one who belonged to Johnson Whitmire before the war or not? A No, sir, I don't know; I never heard her say that she belonged to the Nation before the war.
Q Did you know the Whitmires? A Yes, sir.
Q Did you know any of their slaves? A I can't remember them I knew them but I can't remember them.
Q Now, this man Albert that worked for your father, you don't know his given name? A No, sir, we just called him Albert, and I don't remember what his other name was.
Q You don't know whether Albert was a given or surname? A No, sir; I don't know which it was.
Q Would you know the same persons if you would see them again?
A I don't think I would, it has been so long.

Re-direct examination by Mr. Hastings:

Q How far did you live from Johnson Whitmire before the war?
A About ten or 12 miles. I knew the family and I guess knew the slaves, I don't remember them now.
Q I believe you said you were 54, that would make you be born in 1847; you would be about 14 years old when the war come up?
A Yes, sir.
Q I was going to ask you if you lived in ten or twelve miles of Johnson Whitmire and if this woman had belonged to him before the war, it it quite likely you would have known that in 1867?
A It seems that she would have known people that I did and would have said something about it. I went to school with Whitmire's children and have been at Ben Whitmire's house and I guess would remember some of the names if I heard them recalled, but I can't remember them now.
Q You didn't recognize this woman? A No, sir, I would not recognize her now.
Q You didn't recognize her then as belonging to Johnson Whitmire?
A No, sir.
Q Never heard her remark about it? A No, sir.

EMMA FINLEY, being duly sworn by Commissioner T. B. Needles, testified as follows: Direct examination by Mr. Hastings:

Q What is your name? A Emma Finley.
Q What is your age, Mrs. Finley? A 72.
Q What is your post office address? A Tahlequah.
Q Are you a Cherokee by blood? A Yes, sir.
Q Recognized citizen of the Cherokee Nation? A Yes, sir.
Q Mrs. Finley, what was your maiden name? A Emma Harlin.
Q You are a sister of Mrs. Hunt who has just testified?
A Yes, sir.
Q What was your father's name? A William Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Did you come back with your father after the war to the Cherokee Nation? A Yes, sir.
Q When did your father die? A '67
Q Where did he die? A Down in Sequoyah district, near Fort Smith.
Q To what point in the Cherokee Nation did you return after the war?
A Down on Mire close to Fort Smith.
Q About how far from Fort Smith? A Four miles.
Q I ask you if any colored people returned with you? A No, sir.
Q What time did you return to the Cherokee Nation? A In '67.
Q What time in '67? A I am not positive what month it was, it was either February or first of March, I think.

Q Did any colored people return with you? A No, sir, there was not.
Q Do you remember a colored woman by the name of Albert, Martha Albert? A Why, yes, I remember her, she didn't come back with us.
Q She didn't come back with you? A No, sir.
Q At When do you first remember of having seen her?
A I think it was the last of March or first of April, I am not positive which, but it was along about that time.
Q It was after you returned to the Cherokee Nation after the war?
A Yes, sir, after we come back in '67.
Q Do you know where she came from? A In the State some place.
Q She worked for you that season, or part of the time?
A Part of the time.
Q She didn't come back with you or your father? A No, sir.
Q Do you know whether she claimed at that time she was a Cherokee slave? A No, sir, she didn't; if she did I never heard her. Never claimed at all.
Q Mrs. Finley, did you know Johnson Whitmire before the war?
A No, sir, I had heard of him but I was not acquainted with him.
Q You were young? A Yes, sir.

Cross examination by A. E. Hofman.

Q Mrs. Finley, where did you all go to before the war, did you leave the Nation? A Before?
Q Yes. A No, I left the Nation after the war began.
Q In during the war? A Yes.
Q Where did you go to? A Fort Smith.
Q Did you know Martha Albert at that time? A When I left the Nation?
Q Yes? A No.
Q When was the first time you ever seen Martha Albert? A In '67.
Q Where at? A In Sequoyah District.
Q At what time of the year was it? A It was in the last of March or first of April, I am not sure which.
Q In 1867? A Yes, in '67.
Q Do you know whether she had ever lived in the Nation?
A No, I don't.
Q Did her husband work for you also? A Yes, in '67.
Q What was his name? A Colly, that is all the name I ever heard.
Q Just knew him as Colly? A Yes, that is all we called him.
Q Do you know whether or not they were slaves? A No, I don't know.
Q And you say they came here from the State of Arkansas to work for your father in 1867? A Yes, s
Q You don't know whether or not of your own knowledge that had been in the Territory prior to that or not? A No, I only know that he went over in the State and got them.
Q What were they doing in the State? A I don't know.
Q Don't know whether they were living there or not?
A I suppose they were living there, went there and got them.
Q Isn't it possible that they could have been over there at work?
A It is possible, it is not impossible, of course; they had every thing they had over there.
Q Had all their possession in the State of Arkansas? A Yes.
Q And they were those possessions ever in your father's place when they came there? A Yes.
Q What possessions did they have? A They didn't have much, just what they had in the house and one horse.
Q You don't know whether they left the Territory or not? A No.
Q And the first you knew about them was when they worked on your father's place in 1867? A Yes.

HARRY STILL, called as a witness on the part of Applicants being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Harry Still.
Q What is your post office? A Hayden.
Q What is your age? A Well, sir, I don't know exactly, something over 50.
Q You are a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A No, sir.
Q You are a contested citizen? A No, sir.

Direct examination by A. S. McRea:

Q Mr. Still, you are called on to give some evidence in the case of Martha Albert; are you acquainted with Martha Albert? A No, sir, I am not.
Q Did you know Johnson Whitmire? A Yes, sir, I knew Johnson Whitmire.
Q Did you know any of his slaves? A Yes, sir, I knowed his slaves, I knowed 'em all, he was a brother of my M.ster.
Q Did you know this woman Martha? A Martha Whitmire? I didn't know any Martha Whitmire.
Q Did you know Colly Albert? A I know Colly Albert when I see him.
Q Did you know him before the war? A No, sir, I didn't.
Q Did I understand you to first say that you knew Martha Albert, or th t you did not know her? A I do not know h r; I knew Johnson Whitmire's slaves, but I did not know her.
Q Do you know Eliza McCrady? A No, sir.

Cross examination by Mr. Hastings:

Q Where did you live before the war? A Lived on Barren Fork at George Whitmire's place.
Q What kin was George Whitmire to Johnson? A Brother.
Q How far did they live apart? A It must have been four or five miles.
Q Are you well acquainted with Johnson Whitmire? A Yes, sir.
Q Are you well acquainted with Johnson Whitmire's slaves?
A Yes, sir.
Q Did you know him to have a slave by the name of Martha?
A No, sir, I didn't know one by that name.
Q Didn't know one by that name? A No, sir.
Q You lived there in four or five miles? A Yes, sir.
Q If he had one you would have known it? A Johnson had a good many colored people; I knew most of them, I knew all of them, all he raised.
Q This woman claims now to be 54 or 55 years of age, which would have made her 15 or 16 years old when the war came up; you didn't know any Martha Whitmire that was something of that age that belonged to Johnson Whitmire? A No, sir.
Q How old are you, Harry? A I am something over 50 years old, about 54 as near as I can get at it.

re-direct examination by A. S. McRea:

Q Did Johnson Whitmire own a slave by the name of Charles Whitmire, or Charles Nolen? A If he did I didn't know, he may, I have heard of Charles Nolan, but I don't know who he is.
Q Well, did he own a slave, a family slave, by the name of Nancy?
A Not as I know of, sir.
Q Now, as I understand you to say, Mr. Still, you didn't know all the slaves of Johnson Whitmire? A Yes, sir; I was acquainted with 'em, they was kin to me.
Q You were kin to all them? A Yes, sir, kin by blood and I know them.

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UNITED STATES OF AMERICA

DEPARTMENT OF STATE

I, [redacted], Secretary of State of the United States of America, do hereby certify that the annexed is a true copy of the [redacted] executed by [redacted] and that the foregoing is a true and correct transcript of the original.

IN TESTIMONY WHEREOF, I have hereunto caused the seal of the Department of State to be affixed and my name subscribed by the Authentication Officer.

DONE at the City of Washington, this [redacted] day of [redacted] 19[redacted]

[redacted]

Authentication Officer

DEPARTMENT OF STATE

[redacted]

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File with Cherokee Freedman, D- 100, Lula Knalls.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Testimony on behalf of Cherokee Nation.

Appearances:
A. S. McKee, attorney for applicants;
W. W. Hastings, Counsel for Cherokee Nation.

WATT WHITMIRE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Watt Whitmire.
Q What is your postoffice? A Vesta, I.T.
Q How old are you? A 48.
Q What is your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte Whitmire.
Q In what district did your father live before the war?
A Going Snake.
Q Was there any other Johnson Whitmire in Going Snake at that time, that was grown, an old man with a family? A No, sir, not as I know of. there was a Johnson, a son; he is younger than I am.
Q Well, he was born about the time or after the war came up, or when? about how old is he? A He is some thirty odd, some 37 or 8.
Q Did your father own some slaves when the war broke out? A Yes, sir.
Q Do you know whether or not your father or your mother owned a slave by the name of Martha Whitmire when the war broke out? A No, sir, not as I know of; none by that name.
Q Did your father or mother own a slave by the name of Nancy, a woman? A No, sir, not as I know of.
Q This Martha, according to any statement, would be some 14 or 15 years of age at that time? A No, sir, I don't recollect hary one by that name.
Q You are Johnson Whitmire's son? A Yes, sir.
Q You were living at home at the time the war broke out? A Yes, sir.
By A. S. McKee: Mr. Whitmire, how many slaves did your father own?
A I don't know the exact number.
Q Were you acquainted with the names of all the slaves of your father? A Why I believe I recollect the oldest, I don't know that I recollect the smallest children's names, of all.
Q About what was approximately the number of old slaves? A Well, I will have to count them up.
Q Well, give an approximate statement? A About 12 or 14 or somewhere along there; I don't know just exactly.
Q Did he own a slave of the name of Harriet? A Not as I recollect of; I don't recollect any such name.
Q About how old were you at the breaking out of the war? A I was born in '58; I believe the war broke out in '61, wasn't it; about '61.
Q You were about 3 years old? A 3 or 4 years, somewhere along there.
Q How couldn't he have possibly owned this female girl and you not have any recollection of it? A I recollect all the names from my size up, but I don't recollect of any such name of Martha. There was 2 girls, and one the oldest Mary and one I [illegible]
Q They were the only two female colored girls of [illegible] you? A 14 years old? A Well, they were [illegible] and Mary was [illegible]

than me; I don't know exactly, but I just judge from her size.
Q Well now, do I understand you to say this number of fourteen or fifteen adults, or older slaves, did they have any children? A Oh yes, that included men and women together.
Q Included men and women together? A Yes, sir.
Q Did they have any children? A Yes, sir.
Q Do you remember the names of them all? A Well not of all, I remember the names of some of them.
Q About how many children did each family have? A Well, there was one woman by the name of Fronie had one child named Susie, and there was an old lady named Sukie had two or three, and I don't recollect the names of but one boy, his name was Joe, and this girl Nannie I spoke of was the child of old Aunt Sukie; and there was one by the name of Rachel, I don't recollect just how many children she had, but one or two or three, somewhere along there; they were quite small when the war broke out.
Q That is all the children? A No, sir, I don't recollect just how many children there were in the while family of the darkies, but there was Rachel's children, and Aunt Sukie's children, and Fronie's child, one child, I believe isall I recollect of.
Q Well, where did your father's slaves go during the war? A Well I can't tell you exactly; my understanding is they went north.
Q That they all went north? A Yes, sir, part of the men folks left here before I left the old place, and when I left there I left part of the women folks at home, at the old home place.
Q Leave any of the children? A Yes, sir.
Q Have you any recollection what became of them? A No, sir.
Q Did you ever see any of them any more? A No, sir, never saw any more of them any more at all.
Q Did you go away yourself? A Yes, sir, taken away.
Q Where did you go? A Went from there to Cane Hill, Arkansas.
Q When did you return? A After peace was made; went on from Cane Hill south.
Q Have you any acquaintance with this alleged party to this suit, Martha Albert; are you acquainted with her? A No, sir.
Q Don't know her? A Don't know her at all.
Q How long have you lived in the Cherokee Nation now since your return from Cane Hill; was that the place you went to? A Went from the Nation to Cane Hill and from Cane Hill went south in the Choctaw Nation.
Q Then when did you return from the Choctaw Nation to the Cherokee Nation? A Returned in '67.
Q To what point? A Back at the old home place in Going Snake district.
Q You have lived here continuously ever since? A Yes, sir.
Q Were you extensively acquainted with the colored people in and around, or rather in Going Snake district? A Yes, sir.
Mr. Hastings: Now as I understand you, Mr. Whitmire, you stated that you remember all of the slaves that were of your age and older, but those that you don't remember were those that were younger or smaller? A Yes, sir; I remember some that were younger than I was, them that I called a great while ago.
Q You are positive your parents didn't own a slave by the name of Nancy? A No, sir, none that I know of, there wasn't any Nancy on the place, and I believe I can call the names of all the women.
Q Are you positive your parents didn't own a girl older than yourself named Martha? A No, sir, wasn't any on the place named Martha.

J. W. ALBERTY, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A J. W. Alberty.
Q Mr. Alberty, what is your age? A Well, I am 67 years old.
Q What is your postoffice? A My postoffice is Westville, Indian Territory.
Q What district do you live in? A I live in Going Snake district.
Q You a Cherokee by blood? A Yes, sir.
Q Mr. Alberty, where did you live in the Cherokee Nation before the war? A In Going Snake district.
Q Near where you now live? A Yes, sir.
Q Did you know Johnson Whitmire? A Yes, sir.
Q Did you know him before the war? A Yes, sir.
Q How far did you live from him? A Well, it was about ten or twelve miles, I reckon we called it.
Q Did you know his family? A Well, yes I knew his family.
Q This witness here before, named Watt Whitmire, was he a son of Johnson Whitmire? A Yes, sir.
Q I will ask you if you were acquainted with a colored man by the name of Charles Boland before the war? A Yes, sir, he was a mixed blood, free.
Q I will ask you if you knew a colored woman by the name of Nancy Whitmire, alleged to have belonged to Johnson Whitmire before the war?
A Yes, sir, I knew her.
Q Now, if you know what became of Nancy Whitmire and Charles Bola nd I wish you would make a statement to the Commission? A The Whitmire boys sold Nancy to a man named Dillingham, and he moved right across the line from there I lived, five or six miles, and owned them there until he moved off to Texas. Charles Boland and Nancy: I knew them better after Dillingham got them than I did before.
Q Who sold them to Dillingham? A The Whitmire boys, George Whitmore and Johnson Whitmire: they were brothers and they sold them at the time they divided up the property.
Q How about how long before the war was that they sold them, about what year? A I reckon it must have been in '47 or '8, I haven't got the dates, I wasn't expecting anything of this kind, and I didn't get the dates, but it must have been in '47 or 8.
Q What was Dillingham's citizenship? A He had none.
Q Was he a white man or Cherokee or what? A He was a white man and lived in the state.
Q What state? A Arkansas.
Q Lived across the line in the State of Arkansas? A Across the line, yes, sir, in the State of Arkansas.
Q Do you know what finally became of him out there? A Mr. Dillingham, in about '50 or '51 moved to Texas and carried the family, and Boland went with them, he was free but he followed this family off to Texas.
Q Do you know whether he had Nancy for a wife or not? A Yes, Boland had this Nancy for a wife, and claimed the family, and when Dillingham carried the family off he went with them.
Q How far did this man by the name of Dillingham live from you?
A About five or six miles.
Q How far did you live from the Cherokee line up there?
A Well, course that time I only lived about half a mile, right at it.
Q On the west side of the Cherokee and Arkansas line? A On the west side of the Cherokee line.
Q And Dillingham lived on the Arkansas side? A On the Arkansas side, just over near what is called Dutch Town or Valley.
Q He laid no claim to Cherokee citizenship? A No, sir, not a bit; he had a son that was adopted, but the old man had none.
Q And I believe you stated that along about '50 Dillingham carried these people to Texas? A He carried them to Texas.
By A. E. McKee: I understand you to say Johnson Whitmire sold Nancy? A Yes, sir.

Q Nancy Sheppard then did belong to Johnson Whitmire? A Yes, sir, she did belong to Johnson Whitmire; there were two brothers of the children, George and Johnson Whitmire, and they owned an interest in them and they both sold their interests.

Q About what year was that? A Well sir, I can't positively say, but it was in or about '47 or '8; I have nothing to guide me by.

Q Do you know Martha, the child of Nancy? A No, sir, they were all small when they went off, I don't know any but a boy they called Ellis: Dillingham brought him back with him just a little while before the war came up.

Q Did Nancy have children when Johnson sold her? A Yes, sir.

Q Did he sell the children with her? A Yes, sir.

Q Nancy's whole family was sold? A The whole family went, yes sir.

By A. S. McRea: Mr. Alberty, where do you live? A I live in the eastern part of the Cherokee Nation here.

Q And you say Johnson Whitmire sold Nancy, the alleged mother of the applicant, Martha Albert, in 1847? A I didn't say the time he sold her, because I don't know that, he sold Nancy, Charles Boland's wife to Dillingham, and the children, but I don't know nothing about Martha at all, I didn't say the mother of her, but if she is the daughter of Nancy, why she - -

Commissioner: Was sold with the balance, was she? A Yes, sir, sold with the balance; the whole family was sold.

A. S. McRea: To whom did you say they were sold? A Dillingham.

Q Where did he live? A He lived in Texas.

Q Do you know of your own knowledge that this woman, Nancy, went to Texas? A Yes.

Q How do you know that? A I saw them start.

Q Did you see them arrive? A I didn't see them arrive in Texas, but I saw them start on the road.

Q Do you know whether or not, of your own knowledge that they arrived there? A No, sir, I can't say that, but I guess from all the circumstances they did.

Q What fixes it on your mind so very definitely that they were sold in '47? A Well, just as I said before, I said I wasn't positive about that, but it was in or about that time.

Q For how much was she sold? A Well I can't exactly say now what they did bring, because they got some horses and some cattle and some money.

Q How many horses? A I can't answer that question.

Q How many cattle? A I don't know.

Q How much money? A Well, I don't know that that would amount to anything, because it was satisfactory to them.

Q You say they were sold and we want to know what was the status of the sale? A Well I don't know the amount that they got for them, I can't say.

Q Did you see any money exchanged? A No, sir, but after that they changed hands, the darkies went.

Q It is true, they could possibly have changed hands without any sale? A Well hardly them days.

Q Then in so many words, you don't know whether that was a bona fide sale or not or your own knowledge? A Well, of my own knowledge, I would have to say it was a bona fide sale, or else he wouldn't have taken them out of the Cherokee Nation.

(Foregoing answer read by stenographer at request of attorney for applicant.)

Witness: Yes, sir.

McRea: He said you would suppose it was a bona fide sale.

Commissioner: Was that your answer?

Witness: A Yes, sir.

Commissioner: How long after the sale was it before Mr. Dillingham taken them to Texas? A It must have been 2 or 3 years, they lived right there close neighbors to us two or three years after they

bought them.

Q With whom? A With Dillingham, in the State of Arkansas.

Q Then when the sale was made Dillingham at that xxx time was living in Arkansas? A Yes, sir.

Q Is your first statement that he was living in Texas correct, at the time of the sale? A No, sir, I didn't make that, he was living in Arkansas and moved to Texas, I said, in about '50 or '51 and taken them with him in about '50 or '51.

McRea: I would like to examine the face of the record.

Commissioner: The record shows for himself. If the witness contradicts himself the record shows it. I think the witness did state when you asked him where Dillingham lived, that he lived in Texas, but you didn't specify the exact time when he lived, but the witness stated plainly now at the time Dillingham bought the slaves he lived in Arkansas and moved to Texas a few years after.

McRea: Did you ever see Nancy Whitmire any more? A Well, I never saw her after he moved off to Texas with her.

Q Are you acquainted with Martha Albert, the applicant in this behalf? A No, sir.

Commissioner: You don't know Martha at all then? A No, sir; well there were several children, but I don't recollect their names; there were several children then only they were small.

Q You have never been the averred mother of Martha, Nancy, after Dillingham took her to Texas? A No, sir.

McRea: And you don't know whether or not this woman, Martha, was one of the number of these children that accompanied the mother, Nancy, to Texas or not? A No, sir, I don't.

Commissioner: Did Nancy have children to your recollection?

A Yes, sir.

Q You don't recollect how many? A Well, no I don't, there was three or four, four children, there might have been more and might have been less.

Q Know whether they were boys or girls? A There was one boy.

Mr. Hastings: I believe you states that these children that she had went with her? A Yes, they all went with her.

McRea: About what was the age of these children? A Well, they were small, they were not very large.

Q 3, 4, 5, 6 years or 10 years, something like that? A Well, he must have been 6 or 7 or 8 years old, maybe 10, I can't state that.

Q Was that a girl or a boy? A I think the oldest one was a girl.

Commissioner: This testimony will be made part of the testimony in the cases, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152, D-146, D-182. Attorney McRea for applicant objects to testimony being filed in the case of Robert Barnes et al., and the objection is overruled.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above cause, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 5th of September, 1901.

M D McKeen

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
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File with Cherokee Freedmen D- 100, Lula Knalls.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 11, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Supplementary evidence introduced on behalf of applicants.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

The Commission: Now Mr. McRea, state briefly what you desire to prove by this witness.

A. S. McRea: Applicant desires to offer testimony in behalf of herself et al., by Sam Barnes, showing that mother of applicants did return to the Cherokee Nation within the time of the treaty stipulations, and that so far as the sale of she and her mother to one Dillingham, it is untrue.

The Commission: When you speak of the applicant, I suppose you mean Martha Albert?

McRea: Yes, Martha Albert and others.

Mr. Hastings: The Cherokee Nation objects to the applicant being allowed to introduce any testimony in this case on the question of the return of any of the applicants, for the reason that applicants introduced their testimony on both ownership and return, and the Cherokee Nation introduced testimony on both, and the only testimony which can legally be introduced by the applicant now as testimony in rebuttal of new matter brought out by the Cherokee Nation in its testimony.

The Commission: The objection of the Cherokee Nation will be noted.

S. B. BARNES, appearing before the Commission and being duly sworn and examined, testified as follows:

A. S. McRea: Give us your name, Mr. Barnes? A S. B. Barnes.
Q Your age? A About 57, going on 58.
Q Postoffice address? A Benge.
Q Mr. Barnes, are you acquainted with the applicant, Martha Albert? A Yes, sir.
Q How long have you known her? A I have known her going on 37 years.
Q Do you know whether or not she was a slave in the Cherokee Nation before the war of the rebellion?

Mr. Hastings- I object to that, both because the very testimony itself shows that he didn't know that; said he hadn't known her but 37 years.

Commission: Ask him the question.

Q Where was she when you first knew her? A She was down here right close to Cherokee.
Q Where is that? A That is down right on the line, at the [illegible] Junction.
Q Was that in the Cherokee Nation? A Yes, sir.
Q Did you know her mother? A Yes, sir.
Q What was her mother's name? A Nancy.
Q How long had you known the mother? A I got acquainted with her in '65.
Q Where was she when you first met her? A I met her down there on the Cherokee Nation? A Yes, sir.
Q Do you know whether or not they went out of the [illegible]

or not?

Mr. Hastings: He says he never met them till '64 and '65; you ought to know that he can't testify to that.

McKee: He might have heard; we have been taking hearsay testimony.

Commission: Answer the question.

A I don't know.

Q Did you ever hear of the mother of your wife, Sarah Barnes, having been sold to a man by the name of Dillingham?

Mr. Hastings: Objected to by the Cherokee Nation on the ground of hearsay.

Commission: Ask him if he knows.

Q Do you know? A No, sir, I don't know it.

Q Did your wife ever tell you they were sold.

McKee: What his wife told him is admissable.

Mr. Hastings: Objected to by the Cherokee Nation on the ground that it is clearly inadmissable, it being hearsay testimony, and a declaration in interest of the party.

Commission: Let him answer the question.

Q Did your wife ever tell you whether or not she and her mother were sold to Dillingham by Arkansas? A No sir, she never did.

Q I will ask you if you and your wife ever had any conversation pertaining to her citizenship?

Mr. Hastings: Objected to by the Cherokee Nation for the reason that it is clearly hearsay and inadmissable.

McKee: That is not hearsay testimony.

Commission: I will let him answer the question.

Mr. Davenport, Cherokee attorney: I will object on the ground that he can't testify for or against his wife, under the rules of law. I think I recollect that the Commission has served notice that it would follow the ordinary rules of evidence.

McKee: The Commission served notice that it would not confine itself to the different rulings and technicalities of law in trying testimony in this matter.

Commission: Go on with the examination, Mr. McKee.

(question read to witness by stenographer.)

A Why of course, she met the John Chambers Court at Tahlequah.

Q Where did you marry your wife? A Marry her; we were engaged here in the Cherokee Nation but we were married at Fort Smith.

Q She was living in the Cherokee Nation when you courted her?

A Yes, sir.

Q How long did you marry her? A I married her in November, '65.

Mr. Hastings: Where did you live before the war? A I lived in Texas.

Q What county? A Fannin County.

Q Who was your owner's name? A Higginbotham.

Q What was his first name? A Thomas Higginbotham.

Q What was the nearest town to you? A Bonham.

Q Did you know Jerry Starr down there? A No, sir.

Q Did you see your wife down there? A No, sir.

Q You didn't? A No, sir.

Q Did you see Henry Whitlow, or Henry Boland, down there? A No, sir

Q See Martha Albert? A No, sir.

Q How old are you? A I have passed 50 years old.

Q What is your father's name? A My father, Bob Barnes.

Q When did you leave Texas? A I left Texas directly after the war ended.

Q Well, did you make a crop down there the year the war ended?

A I wasn't off enough, I didn't make no crop.

Q Who were you living with? A I was living with my old mistress.

Q You wasn't a Cherokee? A No, sir.

Q Well, did you make a crop with your old mistress, or for her?

A Yes, sir.

McRea: I object to all that; it is immaterial to the question at issue.

Commission: Answer the question.

Q You made a crop for her you said? A Yes, sir.
Q The year the war ended? A Yes, sir.
Q Now then you stayed there then that year? A I left there just as the war was up.
Q I thought you said you made a crop there? A I did.
Q Then you laid that crop by, did you? A The war came to an end in the spring of '65 if I understand anything.
Q Well, how did you come to leave Texas and who did you go with?
A I came by myself.
Q Just alone? A Yes, sir.
Q Come afoot? A No, sir.
Q How did you come? A I had a horse.
Q Well, where did you come to? A I come to Fort Smith.
Q You had never been to Fort Smith before? A No, sir.
Q You had never heard of Fort Smith in your life before? A Oh yes sir, I hadn't been dead I don't reckon, I was a kid.
Q How far below Fort Smith did you live when you lived in Texas?
A From Fort Smith?
Q Yes? A You mean just out on the river?
Q In Texas? A It is about 200 miles.

McRea: I object to that, the question is misleading in its nature, and I object to it.

Commission: He has already answered the question.

Q You came direct to Fort Smith? A Yes, sir.
Q Who did you work for there? A I worked for Bill Bell, five miles out south of town.
Q How long did you work for him? A I worked there a couple of weeks, or about a week, or couple of weeks.
Q Then where did you go? A I crossed over here in the Cherokee Nation.
Q What induced you to leave down there and leave your folks and go to Fort Smith at that time? A Just because I had a notion to go to Fort Smith.
Q Then what induced you to leave Fort Smith after being there only two weeks and go over on the Nation side? A Just because I wanted to go.
Q You didn't know anybody over there, did you? A No, sir.
Q You had never seen a soul? A Of course I had seen people.
Q You had never seen one of them over there at Fort Smith?
A Not from across the Cherokee Nation side, across the river; why I saw people down in Fort South out of the Cherokee Nation.
Q Who did you meet that lived on this side of the river, at Fort Smith? A I met Tom Stoneroad and Mrs. Franklin, I don't know how many people I didn't meet.
Q Whose place did you go to on this side of the river first? A I was at Mr. Stoneroad's place the first place I was at, right on the line.
Q How long did you stay there? A I didn't stay there but an hour or two.
Q Then where did you go? A I went back to town.
Q How long did you work there in town? A I don't know exactly how long.
Q A year? A I don't know exactly how long I worked in town.
Q 25 years? A I might not have worked there more than two hours, I don't know.
Q Don't know whether it was an hour or 25 years? A Yes, sir, I do know how long.

McRea: He has answered that he don't know.

Commission: Let him answer the question.

Q About how long? A I worked there two or three different times.

sometimes I would be in town a week and sometimes not but a day or two and sometimes two or three days.

Q Where were you making headquarters, or home? A I made headquarters sometimes out at Bill Belt's and after that I worked for Tom Stoneroad some eight on the line of the Cherokee Nation.

Q How long did you say a while ago you had been married? A I said I married in November, '66.

Q How many years did you say that was? A I didn't say nothing about the years.

Q Who married you? A I was married by the clerk.

Q What was his name? A I don't know his name.

Q Clerk of what court? A Clerk of the Court there, at Fort Smith.

Q On the Arkansas side? A Yes, sir.

Q You got a license over there, and he married you? A I think I got license.

Q Now what is your full name? A Sam Barnes is my full name.

Q What is your wife's name? A Her name was Jennie.

Q Jennie what? A Jennie Boland.

Q She is a sister to Martha Albert? A Yes, sir.

Q Younger than Martha? A Yes, sir.

Q Have you ever been married before? A Yes, sir, had been married twice before.

Q Where had you been married? A In Texas.

Q What was your first wife's name? A Anna.

Q She dead? A Yes, sir.

Q What was your second wife's name? A Name was Sandy.

Q What year was it they had that investigation, that Chambers Court you speak of? A That was in '78.

Q Was your wife admitted or rejected? A Must have been rejected by us having to be here.

Q Did you make a statement up there before that Court? A Yes sir.

Q You never saw your wife before the war? A No sir.

McKee: Did you see the mother, Nancy Boland, of your wife and Martha Albert, here in 1866? A I seen her here, yes sir.

Q In the Cherokee Nation? A Yes, sir.

Q Is she living now? A Who is that?

Q The mother, Nancy Boland? A Oh no, she died in '68.

Q Where was she buried? A Buried on this side the river there somewhere.

Q In the Cherokee Nation? A Yes, sir.

Q Did you see the father, Charles Boland I believe was his name? A Yes, sir.

Q In '66 here in the Cherokee Nation? A Yes, sir.

Q Is he alive now? A No, sir, he is dead.

Q When did he die? A He died in '78.

Q Where was he buried? A He is buried on Lees Creek.

Q In the Cherokee Nation? A Yes, sir.

Mr. Hastings: On whose place is Nancy Boland, the mother of Martha Albert and wife of your wife, buried: who owns that place now? A She was buried at what was called the Jack Campbell graveyard, my wife.

Q This Nancy Boland, where is she buried? A She is buried I think at Mrs. Franklin's graveyard.

Q Do you know it? A That is where I was told she was buried.

Q What time did she die? A She died in '68.

Q Spring, summer or fall: before you married or after? A Just before I married.

Q Did you ever see her? A Seen her many a time.

Q In Texas? A No sir, never seen her in Texas.

Mr. Hastings: Notice is hereby served on the attorney

in the case of Martha Albert and the referred cases, that the Cherokee Nation desires to introduce testimony in them on Friday, the 13th inst., between the hours of eight in the morning and five in the afternoon.

McRea: The applicant will on said date introduce additional testimony in the case at bar.

Commission: This testimony will be filed in the following Cherokee Freedmen cases: D-42, D-146, D-182, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 15th of September, 1901.

Commissioner.

DEPARTMENT OF
COMMISSION TO THE FIVE
FIL
SEP 23 19

File with case of Lula Shalls, et al., C.R.-D.#100.

Supl. C.R.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 17, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen, intervened on the part of the Cherokee Nation.

APPEARANCES:
W. W. Hastings, Attorney for Cherokee Nation;
A. B. McRee, Attorney for applicants.

J. W. HUGHES, being duly sworn, testified as follows on part of the Cherokee Nation. BY MR. HASTINGS:

Q What is your name? A J. W. Hughes.
Q Post office? A Ramey.
Q What is your age? A 53.
Q Are you a citizen of the Cherokee Nation? A Well my wife and children are, I wasn't married according to the Cherokee law.
Q When were you married? A I were married in '69, July, '69.
Q Where did you live that year after you were married? A I lived in the Indian Territory on Joe Purdue's place on Webber creek, in a mile and a half or two mile beyond Big Lees creek.
Q That is in Sequoyah district? A Yes, sir.
Q And about how far from Fort Smith, Arkansas? A Well, according to the line straight through, about eight miles.
Q Do you know Colly Albert, a colored man? A Yes, sir, I was acquainted with him there.
Q Were you acquainted with his wife, Martha Albert? A Yes, sir.
Q Did you know Martha Albert's father? A Yes, sir, that is what they claimed to be her father.
Q Well, what was his name? A His name was Bolden, I could not tell you what his given name was. He claimed his name was Bolden.
Q Well, he was recognized there as the father of Martha Albert?
A Yes, sir.
Q Did you know Martha Albert's sister, Jennie Barnes?
A Yes, sir, I was well acquainted with them, lived in a half mile of them about four years.
Q Did these children do any work for you in those early days, '69 or '70? A Well, in the year of '70 when I was living there on the place they were living a quarter or half a mile below me, I rented a place from Joe Purdue and they were living joining that place, and I hired them to chop cotton for me and also to pull cotton and work; and do some other work making rails and fixing fence, and I worked there with them two or three years, they worked for me.
Q Did you ever have any talk, or hear any members of this family make any statement as to where they came from and their whereabouts prior to that time? A I have heard Bolden and his daughter, Colly Albert's wife, I never have heard Colly speak anything concerning it as I remember at this time.
Q Well, from Bolden or Colly's wife, Albert? A I heard Bolden--
Mr. McRee: I object to anything Bolden said.
Commission: Note the objection and answer the question.
A I heard him saying he was in Texas, he claimed himself to be part Cherokee, if I mistake not, and that he was not a slave; he claimed that he was not, but his wife and children--seems to me he had two children--and they were sold out of here and were carried to Texas by somebody, and I don't remember just who he said owned them, but the best I remember about it that he had the two girls, Martha and Jennie, two girls, if I mistake not, as near as I can positively think of it not at the present, and that he went after the children' sake and went I guess to Hempstead Texas and built

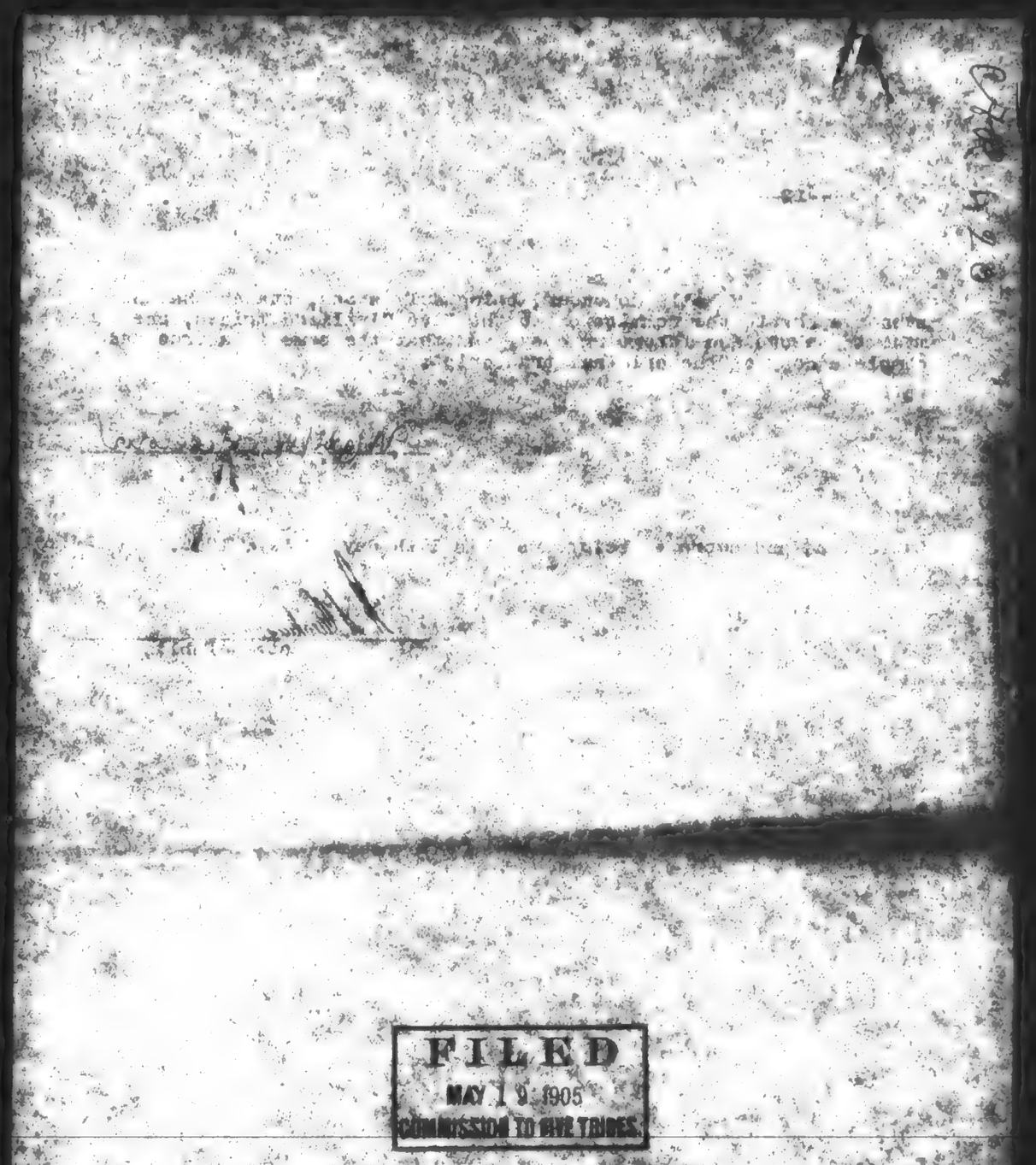
and that he still lived there until the war closed and moved back, but I never was acquainted with him until '69 or '70.
Q Well, did he say when they went to Texas? A No, sir, I don't remember.
Q Well, as to the war, or before the war? A It must have been before the war.
Q Did he say that his wife and children were sold? A I think he did, I won't be positive about that, but I think he did. I remember one thing he told me, he was mighty jokey and working for me there picking cotton and chopping cotton and talking about his ups and downs down there in Texas, and what makes me think that you know, I asked him you come from down here in Texas and he spoke about his wife and children being sold out, and if I mistake not, he told me before the war they were sold out, I won't be positibe about that, but it seems to me that he did, and then at the close of the war, or after the war a while, he come back, but I don't remember anything about the time, date; I never was acquaint ed with him until '69, we made a crop there that year and how come me to get acquainted with him is what I say, I had rented that place of Joe Purdue's on the creek and we made a crop there that year and I made a crop there in '70.
Q Well, did you ever hear Martha Albert say anything about her whereabouts, where she came from? Well she claimed, if I understand it, she claimed that she come from Texas.
Q Do you remember whether you ever heard Jennie Banres saw anything about where she come from? A I never heard Jennie Barnes say anything about it, she was not about our house, but these others they worked for me a great deal.
Q Do you remember whether Boldan made any statement as to who his wife formerly belonged to up here in this country before the war?
A I just don't remember.
Mr. McRea: I object to that.
Commission: Your objection will be noted.
A It seems t o me that she was a whitmire, I won't be positive about that now
MR. McREA: Mr. Hughes, you say your first acquaintance with Martha Albert and her family was in '69 or '70? A First acquaintance was '69, and in the fall of '69.
Q You knew nothing of them before that A No, sir, I did not know them before '69, I could not tell you just what time of the year, but it must to have been, the best knowledge I have about it now, was in '69, and what makes me think so I was married in '69, in July.
Q When was the last time you saw Martha Albert? A I suppose it must have been two or three years ago the last time I remember seeing her, two or three years ago.
Q Did you ever give testimony in this matter before?
A I never have, never was called on.
Commission: This testimony will be made a part of the record in the following cases: D.#42, D.#146, D.#188, D.#99, D.#100, D.#101, D.#102, D.#103, D.#104, D.#105, D.#114, D.#150, D.#151, D.#152.

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I, J. O. Hogan, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this September 28th, 1901.

Commissioner.


FILED
MAY 19 1905
COMMISSION TO FIVE TRIBES.

Cherokee Freedman-R-418 to 431,
both inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, April 27, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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It appears from the records of the Commission that on the 11 day of January, 1904, the Commission rendered a decision in the above case, denying all the applicants therein, which decision of the Commission was approved by the Secretary of the Interior on June 21, 1904. It further appears that on March 23, 1905, this application was remanded by the Secretary of the Interior for further hearing.

Now on this, the 27th day of April, 1905, the applicants appeared in person and by their attorneys, Neal & Loudon. The Cherokee Nation represented by Bell, Hastings & Davenport.

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Witness for applicants.

A. J. Alberty, being duly sworn, testified as follows:

MR. NEAL:

Q. What is your name? A. A. J. Alberty.
Q. Where do you live? A. Near Stilwell.
Q. How long have you lived in the Cherokee Nation? A. I was born there.
Q. How old are you? A. About 40 years old.
Q. You are a Cherokee by blood? A. Yes sir.
Q. Were you acquainted with Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him before the war? A. I guess a couple of miles.
Q. Were you acquainted with his slaves? A. Yes sir.
Q. Do you remember anything about his selling some slaves into Arkansas some time before the war? A. Yes sir.
Q. To whom did he sell these slaves? A. A man by the name of Billingham.
Q. Do you know whether there was a slave named Nancy sold at that time? A. I think so.
Q. Do you know this applicant? A. Yes sir.
Q. Did you know her before the war? A. Yes sir.

Q. To whom did she belong previous to the Rebellion? A. Johnson Whitmire.
Q. Was he a Cherokee Indian? A. Yes sir.
Q. Was she sold by Whitmire previous to the Rebellion? A. Yes sir, I think she was.
Q. Do you mean this applicant? A. No sir.
Q. Did he have two slaves by the name of Martha? A. Yes sir, one was called big Martha and the other little Martha.
Q. Which one was sold? A. Big Martha was sold.
Q. Was this one little Martha? A. Yes sir.
Q. Was she sold? A. No sir, the other one was sold to Dillingham.
Q. Do you know who took her out of the Cherokee Nation when the war broke out? A. This one?
Q. Yes? A. I think it was Cornelius Wright.
Q. Was he the boss who took the Whitmire niggers out? A. Yes sir.
Q. Did you, at any time during the war or at the close of the war, see this applicant anywhere, and if so, where? A. After the close of the war I was down there in the Choctaw Nation on Red River, and I learned from the Choctaws that there were a lot of refugees there. I looked out for them, and found some of the Whitmire slaves.
Q. Was that in the Choctaw Nation? A. Yes sir.
Q. When was it? A. I think, to the best of my knowledge, that it was in the fall of '65.
Q. Do you know of your own knowledge when she returned to the Cherokee Nation? A. No sir, I don't.
Q. What was this woman's mother's name? A. She went by the name of Nancy.
Q. What was the name of the other Martha Whitmire's mother? A. I think her name was Dicy.
Q. Her name was Dicy Whitmire before she was sold by Whitmire? A. Yes sir.
Q. Was her name Dicy Whitmire or Dicy Shepherd? A. They always went by the name of their master.

MR. HASTINGS:

Q. When is your birthday? A. I think it was about '43, but I aint right sure about it.
Q. You have never had a birthday since? A. No sir.
Q. You didn't have one last year? A. Yes, my birthday comes around, I guess.
Q. When was it? A. In August of '43, I think it was.
Q. But you are about 60 years old? A. Yes sir.
Q. Do you remember about the year that Dicy, the mother of Martha, was sold to Dillingham? A. It was two or three years before the war.
Q. Who else was sold at the time Dicy was sold to Dillingham? A. There were two or three children.
Q. What were their names? A. One of them was called Martha.
Q. Where did you live at the time? A. Right up above Whitmire's up in Going Snake District.
Q. Walt Whitmire lived there with his father didn't he? A. If he did he was very young.
Q. You say it was only three or four years before the war? A. Well, I don't know his age.
Q. Who did you get a letter from about a week ago to hunt up testimony in this case? A. I didn't get one from anybody.

Q. Did you ever get one from anybody with reference to hunting up testimony in this case? A. I saw Mr. Rogers.
Q. What Mr. Rogers? A. That man over there behind Mr. Neal.
Q. What interest did he have in the case? A. I couldn't tell you. He just asked me to go over there and see if I could find anybody that knew these people.
Q. Who did you go to ask? A. Mrs. Susie Walkingstick.
Q. What interest did you have in going around over the neighborhood asking people if they knew about the people in this case? A. They had asked me to do it as a favor.
Q. Did you have any interest in the case? A. No sir.
Q. How many slaves did Johnson Whitmire have when the war came up? A. I don't know --- several.
Q. Let's have the names of some of them? A. One was called Dicy, One Nancy, Emma, Rachel. I believe that is all I know the names of. There were several more, but I don't remember their names.
Q. How far did Jack Alberty live from Johnson Whitmire? A. About 8 miles.
Q. How far did Jeff Tik-nee-sky live from Johnson Whitmire? A. About three or four miles.
Q. Do you swear that Johnson Whitmire owned this slave and her mother when the war came up? A. Of course he owned them.
Q. You will swear that? A. Of course I will.
Q. And he owned her mother at that time? A. Yes sir.
Q. Was she very old? A. Not very.
Q. Did she have any more children? A. I don't know. I wasn't that well acquainted with her. I was over there a good deal, but I didn't know about her business.
Q. Don't you know whether she had any other children besides this Martha? A. I don't know.
Q. Didn't she have one older than Martha? A. I don't know.
Q. And didn't she have two younger than Martha? A. I don't know
Q. But you knew Nancy and Martha? A. Yes sir, but I met them out on Red River after peace was made, and that is how I knewed so much about them.
Q. You didn't know that she had a brother or any sisters? A. She had some brothers I guess.
Q. What were their names? A. One went by the name of Nelson, one was Aaron, and one was Lewis.
Q. Who did they belong to? A. I think they were kinder in partnership between Johnson Whitmire and George Whitmire.
Q. Did you know the father of Johnson and George Whitmire? A. No sir.
Q. He died long before the war, didn't he? A. I guess so. I never knew him at all.
Q. When did Dillingham get Dicy? A. I don't know about that.
Q. Who took this applicant and her mother south? A. Cornelius Wright.
Q. Is that Cale Wright's father? A. Yes sir.
Q. Then Cale Wright would know about that? A. I guess he would.
Q. How do you know they went south with Cornelius Wright? A. They told me so.
Q. How old was this applicant when the war came up? A. I could not tell you. I was about 15 years old, and she wasn't as large as me.
Q. Was she five years old? A. I don't know.
Q. Was she three? A. I don't know.
Q. Was she two? A. I have no idea about her age.
Q. Do you mean to tell this Commission under oath that you knew this particular girl and yet can't tell whether she was 15 or two years of age? A. She was over two.

Q. What is your best judgment, if you are going to tell the truth? A. I guess she was 13 or 14 years old.
Q. You say she went south with Cornelius Wright? A. Yes sir.
Q. Did Cale go with his father? A. I don't know whether he did or not.
Q. Weren't you in the neighborhood? A. No sir, I was a soldier.
Q. Who was the reputed father of this applicant? A. I never knew him.
Q. Did you ever know of a free nigger by the name of Charley Bowland? A. No sir.
Q. He didn't live around there? A. He might have, but I didn't know him.
Q. He didn't go over with Dillingham? A. I don't know.
Q. You would have known it if he had? A. I might not have seen them when they left, but just heard of it.
Q. You know that Dicey went off with Dillingham? A. Yes sir.
Q. and she had a child by the name of Martha? A. Yes sir.
Q. And you swear that this Nancy and her child Martha were living there with Johnson Whitmire in Going Snake District when the war came up? A. Yes sir.
Q. And yet, you do not know how old she was? A. I guess she was 13 or 14 years old.
Q. How long was it immediately before the war that you saw this child at Johnson Whitmire's? A. I was around there several times, and I don't know just when was the last time.
Q. When was the last time you were at Johnson Whitmire's before the war. A. I couldn't tell you that.
Q. You must tell us what is your best judgment. You are under oath now? A. In those days I didn't keep any account of my whereabouts. I was a young man and didn't keep any account.
Q. Were you in the country when the war came up? A. Yes sir.
Q. How long before the war came up was it that you were at Johnson Whitmire's? A. Just a short time.
Q. How long was it before the war that you saw Nancy at Johnson Whitmire's? A. I couldn't tell you.
Q. Was it ten years? A. It might have been.
Q. It might have been 15 years? A. It might have been.
Q. You are not going to be positive on that point? A. No sir.
Q. It might have been as much as four or five years before the war that you last saw Nancy and this child at Johnson Whitmire's? A. It might have been a year or six months.
Q. When you were at Jeff Tik-nee-sky's you didn't know anything about these people? A. Yes I did.
Q. Did you tell him that you knew them -- that you knew this applicant's mother? A. Yes sir.
Q. Did you tell Jeff what you have told on this stand? A. I told him that I knew of one being names Nancy, and I told him the other one, I told him of the one that Dillingham took out -- that that one was called Dicy and her daughter was called Martha.

MR. NEAL:

Q. Did you go into the army when the war first broke out? A. yes sir.
Q. Were you around there until you went off to soldiering? A. Yes sir.
Q. Then you were in that neighborhood until the war broke out? A. Yes sir.
Q. In your cross examination you told Mr. Hastings that it might have been 10 or 15 years or six months that you lived within two miles of Johnson Whitmire and didn't go down there. Do you mean that you lived there that long and didn't go about his

place? A. Yes sir.

Q. Then you don't know whether you stayed there five years before the war or not? A. No, I couldn't tell you how long it was. I was over there now and then.

Q. Every four five years or what? A. Maybe every two or three weeks.

Q. Were you over there every two or three weeks before the war broke out? A. Yes sir, maybe it would be a month.

Q. Do you mean to say that before the war broke out you were over there every three or four weeks or every four or five years? A. It was a short time.

Q. Were you ever there every week or two or every year or two? A. Every week or two.

Q. When you said you didn't know how long it was, you meant that you didn't know how many days it was before you went to the army? A. Yes sir.

Q. Did you see Nancy within a month or six weeks before you went away? A. Yes sir, I think so. It has been a long time ago and a man can't remember all of these things. Lots of things have slipped my memory.

MR. HASTINGS:

Q. Wasn't Watt Whitmire, being a son of Johnson Whitmire, in a little better position to know what slaves his father had than you were? A. I guess he would. He knew them better than I would for he was with them every day.

COMMISSION:

Q. When were you last at Johnson Whitmire's before the war broke out? A. I couldn't tell you exactly.

Q. What is your best judgment? A. It might have been two or three weeks or a month.

Q. Was it within a short time before the war broke out? A. Yes sir.

Q. Do you state now as a positive fact that when you were there the last time, that you saw this applicant there? A. Yes sir.

Q. The last time you were at Johnson Whitmire's before the war she was there? Do you state that as a fact, now? A. Yes sir, she was there, but she was never taken out of there.

Q. Well, she was there or else she was not? A. Yes sir, she was there, but she never was sold out.

Q. Were any of the other slaves there? A. Yes sir.

Q. How often have you seen this witness since the war? A. Just one time -- then I saw her yesterday or the day before. I saw her out on Red River before '65.

Q. Since '65 up to a couple of days ago you haven't seen her at all? A. No sir.

(Witness identifies his signature attached to an affidavit which is shown him.)

Q. Are you willing to swear now, Mr. Liberty, that this woman, whom you haven't seen for forty years is the same woman that you saw at Johnson Whitmire's just before the war? A. Yes sir, I saw her out on Red River in '65, and she is the same one.

Q. And you haven't seen her since until a few days ago? No sir, I haven't.

Q. In January of this year the year application began in the land

about some Martha Albert --- about four months ago? A. Not that I know of.

Q. Do you remember this paper that I showed you a while ago? A. Yes sir.

Q. Did you read that paper before you signed it? A. Yes sir.

Q. Four months ago you were before Mr. Rogers, a Notary Public, that you had known this woman all her life time, and now you state that from the time you saw her down on Red River, in '65, until a few days ago you didn't see her at all? A. I couldn't see her all the time.

Q. It is a fact that you had not seen her since '65 until a few days ago? A. Yes sir, I hadn't.

Q. Prior to that time you had signed this affidavit, hadn't you? A. Yes sir.

(Reference is made to an affidavit signed by the witness in the case of this applicant, signed January 10, 1905, before N. L. Rogers, Notary Public, and which is a part of the petition for a rehearing, addressed to the Department of the Interior and to the Honorable Commissioner of Indian Affairs.)

MR. NEAL:

I have one other witness, Martha Williams, who is the Martha that was sold by Johnson Whitmire to Dillingham. She lives at Marlton, and we sent a man down after her, and this morning I got a message stating that she is sick, and that a doctor's certificate has been procured. As soon as she is able to travel I would like to bring her up here and take her testimony? The testimony of this witness is important, because she is the Martha that belonged to Johnson Whitmire and who was sold out to Dillingham.

WITNESS EXCUSED.

Martha Albert recalled for additional cross examination.

MR. HASTINGS:

Q. What is your name? A. Martha Albert now.

Q. What was your father's name? A. Charley Rowland.

Q. What was your mother's name? A. Nancy, but she was called Nannie when she was young.

Q How old are you? A. I think I am about 60 years old, but I don't know exactly. I am not educated and can't tell my age exactly.

Q. Were you married before the war? A. No sir, I was just a little girl.

Q. Were you married during the war? A. About the last year of the war.

Q. Where? A. On Red River.

Q. Who did you go south to Red River with? A. With Cornelius Wright's daughters.

Q. Who took them? A. Cornelius Wright took them, and there was another lot went along. We all went together, but I was so small that I didn't pay much attention.

Q. Did you know any of Cornelius Wright's folks? A. Yes sir, I knowed Alf Wright, and Mary Tinnie, and Mary Dareus.

Q. Did Cornelius Wright have any children? A. Yes sir.

Q. What were their names? A. I can't tell you, for it has been a long time ago, and I don't remember their names.

Q. You can't recall the name of any one he had when the war came up? A. I can remember them, but I can't remember their names.
Q. You can't remember the names of any of them that went south with you? A. No sir.
Q. Where did Cornelius Wright live when the war came up, and about when you started south? A. On the other side of Barren Fork.
Q. On which side of Barren Fork was that? A. On the north side.
Q. How far from Barren Fork? A. I didn't go out there and measure it, Mr. Hastings, I was too young.
Q. What was Cornelius Wright's wife's name? A. Her name was Sarah, I think.
Q. Was she living when the war came up? A. It seems to me like she was dead.
Q. How long had she been dead when the war came up? A. You must recollect that I was a child and don't remember lots of things. You must give me a chance the same as anybody else. You folks didn't give us niggers no education so we could know and remember things like that.
Q. About how long before the war did Sarah Wright die? A. I don't know.
Q. Will you swear that she didn't go south with Cornelius Wright? A. I don't know.
Q. You are sure her name was Sarah? A. I said I thought it was. What did us niggers know about that. All we could call them was Mistress, and most always that was all we knowed about their names.
Q. What was Cornelius Wright's childrens names that went south? A. I don't know.
Q. You didn't have to call them Master and Mistress did you? A. Sometimes we did, and then it has been so long ago that I have raised a family myself since then.
Q. What was Johnson Whitmire's wife's name? A. She was named Tempie.
Q. Was she the wife that was living with him when the war came up? A. I think she was, but I wouldn't be positive.
Q. Was you their slave? A. Yes sir, and he had plenty of slaves besides me.
Q. How many children did Johnson Whitmire and his wife, Tempie, have? A. I will tell you the truth, and I wouldn't swear a lie to get on this roll. I don't know their names -- none but one. I knowed Watt, and that is the only one.
Q. You know him because you heard me call his name, and because he was a witness against you in this case. How old was Watt when the war came up? A. He was a good sized boy, but I was the largest.
Q. If you were a child with them and Johnson Whitmire had some more children, why don't you remember their names? A. I just tell you about that. If you had been raised up a slave in the backwoods like us you would not know your playmates' names.
Q. The truth of the business is, you weren't there? A. Yes sir, I was right there.
Q. Did he have a brother names George Whitmire? A. Yes sir.
Q. What children did George Whitmire have? A. He didn't live right there.
Q. How far did he live from Johnson Whitmire? A. I don't know. I know he lived in the country somewhere.
Q. About how far? A. I don't know.
Q. You never were at George Whitmire's? A. I belonged to Johnson Whitmire.
Q. You never were at George Whitmire's? A. No sir.

Q. You don't know whether he had any children or not? A. I think he did.
Q. You don't know any of Johnson's children but Watt, and you did not know him until he testified against you? A. Yes sir, I knowed him before.
Q. But you never knew any of the rest of them, did you? A. I don't know.
Q. Where did Johnson Whitmire live when the war come up? A. He lived up in Going Snake District.
Q. Near what town? A. Tahlequah.
Q. About how far from Tahlequah? A. I don't know.
Q. Your best judgment? A. I didn't have no judgment about it.
Q. You weren't there, were you? A. I was born and raised right there on the old Whitmire place.
Q. How far is it from Tahlequah? A. I don't know.
Q. Was it as much as two miles? A. I never have measured it.
Q. Was it a mile and a half -- what is your best judgment? A. It might have been a mile and a half or five miles.
Q. Is five miles your best judgment? A. My best judgment is that I don't know.
Q. Is five miles your best judgment? A. I don't know how far it was.
Q. On what side of Barren Fork did he live? A. On the north side.
Q. How far did he live from the creek? A. I don't know that. He didn't live so powerful fur though.
Q. Was it five miles? A. No, I don't think it was that fur.
Q. Right when the war come up how far did Johnson Whitmire live from Barren Fork? A. I guess his old house is sitting there right now, on the north side of Barren Fork.
Q. How far from the creek? A. I couldn't answer lessen I know.
Q. I want to know whether it was a short distance, or how far? A. If I had been a young woman I might have been able to tell you.
Q. How old were you? A. I must have been four or five years old.
Q. And yet, you were married the last year of the war? A. I was 13 or 14 years old when I married.
Q. What became of your mother? A. She died.
Q. Where did she die? A. Down in Sequoyah.
Q. Did your father go south with you? A. He didn't go with us but he come.
Q. You remember seeing him around Johnson Wright's before you went? A. Yes sir, but his home was on Pea Vine.
Q. What kind of a house did Johnson Whitmire live in? A. I think it was a big log house.
Q. Are you certain about that? A. No sir, I won't be certain.
Q. Did he live on the hill or in the valley? A. On the side of the hill.
Q. And you were four or five years old? A. I suppose I was about that old.
Q. You were born in '43 and left in '47? A. I don't know. You ask me too tight questions. If I was sold I would say so.
Q. How many slaves did Johnson Whitmire have? I mean when the war come up? A. He had old aount Tempie, Artie, Mose, Celia, Mary, Nancy and me.
Q. Did Celia have any children? A. No sir.
Q. Did Tempie? A. She had two.
Q. Were they older or younger than you? A. Older.
Q. Did they have any about your age? A. No sir.
Q. Did Mary have any children? A. Yes sir.
Q. What were their names? A. One was named Bass and one was named Tom.

Q. You don't know how far from Barreb Fork Johnson Whitmire lived, though? A. No sir.
Q. You didn't know any of his children but Watt? A. I did know them, but I have forget their names.
Q. You didn't know any of Cornelius Wright's children's names? A. Not sir.
Q. Q. You do not know the names of any of George Whitmire's children? A. No sir, we didn't belong to George.

COMMISSION:

Q. You have some children, haven't you, that you applied for? A. Yes sir.
Q. Elijah and Ida are two of them? A. Yes sir.
Q. Who is the father of these children? A. Colly Albert.
Q. He was a state man, wasn't he? A. Yes sir. Old man Bushyhead raised him, but he didn't belong to him.
Q. How many times have you been married? A. Just the one time.
Q. What was your husband's name? A. Colly Albert.
Q. He doesn't claim any rights as a Cherokee Freedman? A. No sir.
Q. You have a child called Henry? A. Yes sir.
Q. Has he got some children? A. Yes sir.
Q. What are their names? A. Harry, Raymond, and Louie.
Q. Who is the mother of those children? A. Florence.
Q. She is a state woman? A. Yes sir.
Q. She doesn't claim any rights as a Cherokee Freedman? A. No sir
Q. You have a girl called Lillie White? A. Yes sir.
Q. She has some children? A. Yes sir.
Q. Who was the father of those children? A. Henry White.
Q. He is a state man? A. Yes sir.
Q. Have you a child called Nancy Balkam? A. Yes sir.
Q. Has she any children? A. Yes sir.
Q. Their father doesn't claim any rights as a Cherokee Freedman? A. No sir.
Q. Have you a daughter named Malinda? A. Yes sir.
Q. Has she any children? A. Yes sir, six.
Q. Does the father of these children claim any rights as a Cherokee Freedman? A. No sir.
Q. Are they all living? A. Malinda is dead, but her children are all living.
Q. What relation is Jennie Barnes to you? A. She is my sister.
Q. A full sister? A. Yes sir.
Q. Did you have the same father and mother? A. Yes sir.
Q. Is Robert Barnes Jennie Barnes' son? A. Yes sir.
Q. The father of Robert was a state man? A. Yes sir.
Q. Jennie Barnes had a daughter called Lula Knalls? A. Yes sir.
Q. And she has two children? A. Yes sir.
Q. What are their names? A. Sarah French and Fred E. Knalls.
Q. Was the father of Sarah French a state man? A. Yes sir.
Q. What about the father of Fred? A. He was a state man.
Q. Who was the father of R-430? A. He was a state man too.
Q. He is dead, isn't he? A. Yes sir. A. Yes sir.
Q. John Barnes is a son of Jennie Barnes, too? A. Yes sir.
Q. His father was a state man? A. Yes sir.
Q. The mother of Gussie and John is a state woman? A. Yes sir.
Q. Sarah Brown has got a child called Maggie Williams? A. Yes sir.
Q. What is its father's name? A. Marcus Williams.
Q. He is a state man? A. Yes sir.
Q. Jennie Barnes had a daughter named Maggie, and Maggie had a son named George L. Bell. Who was the father of this child? A. George Smith, or Bell.
Q. Is he a state man? A. No sir.

Q. He was denied as a Cherokee Freedman? A. Yes sir.

WITNESS EXCUSED.

Witnesses for the Nation.

Watt Whitmire, being duly sworn, testified as follows:

MR HASTINGS:

Q. What is your name? A. Watt Whitmire.
Q. What is your post office? A. Westville.
Q. What is your age? A. 53.
Q. Are you a Cherokee by blood? A. Yes sir.
Q. What was your father's name? A. Johnson Whitmire.
Q. What was your mother's name? A. Charlotte.
Q. Was your mother living when the war came up? A. No sir.
Q. How long had she died before the war? A. I don't recollect. I was just an infant when she died. I think she died about ten years before the war.
Q. Had your father remarried when the war came up? A. Yes sir.
Q. What was his wife's name then? A. Tempie.
Q. Did you have any brothers and sisters living when the war came up? A. Yes sir. I had one full brother by the name of William, older than me, and then I had some half brothers, names George and Ellis, and a sister named Charlette.
Q. Do you know this applicant that goes by the name of Martha Albert? A. If I ever saw her before I don't know it.
Q. Did your father own some colored people when the war came up? A. Yes sir.
Q. Did he own one called Nancy when the war came up? A. No sir.
Q. Did your father own this colored applicant, who claims that she is the daughter of Nancy, when the war came up? A. There was no Nancy on the place.
Q. Did your father own this applicant? A. No sir, she wasn't on the place.
Q. Were you living with your father when the war came up? A. Yes sir.
Q. How far were you living from Barren Fork? A. Right at two miles.
Q. On which side of the creek? A. South side.
Q. Did you ever live on the north side of Barren Fork? A. No sir. (one)
Q. Do you know Andy Alberty, whose post office is Stilwell? A. Yes sir.
Q. He has just testified upon the stand that your father owned a nigger slave by the name of Nancy and this applicant, who was the child of Nancy when the war came up. Was that true? A. No sir, he never owned no woman by the name of Nancy.
Q. How far did Andy Alberty live from your father when the war came up? A. As near as I can guess it, it was 7 or 8 miles.
Q. What kind of a house did your father live in? A. A double log house.
Q. You say your own mother was dead? A. Yes sir.
Q. Was your stepmother living when the war came up? A. Yes sir.
Q. What become of your father's slaves? A. When father went south we left the women folks all at home. The men had all gone north before we left home. My and my brother, George, were the last ones to leave the place, and we left all the women folks on the place, and after we left they all went north.

Q. None that you owned went south? A. Not one.
Q. Where did you go during the war? A. Down on Red River on the Choctaw side.
Q. Did you know Cornelius Wright? A. Yes sir.
Q. Did you know his son, Cale? A. Yes sir.
Q. How far did they live from you? A. Some five or six miles.
Q. On what side of Barren Fork? A. On the southeast side from us.
Q. Did you see them down on Red River during the war? A. Yes sir.
Q. Did they have some slaves down there? A. Yes sir.
Q. Did they have a woman by the name of Nancy? A. If they did I don't know it.
Q. Did you ever see this applicant down there? A. No sir.
Q. Did you ever see her anywhere before? A. No sir, this is the first time I ever saw her.
Q. How long were you all and Cornelius Wright's people together in the Choctaw Nation? A. I don't know. We moved away and left them there. We moved there in the early fall and left early the next spring, and we left Cornelius Wright's folks living there.
Q. They were related to you? A. Yes sir.
Q. You know that Cornelius Wright didn't have any slave of your father's by the name of Nancy, down there? A. No sir.
Q. Did you ever know the alleged father of this applicant who she said went by the name of Charley Bowland? A. No sir.
Q. Was he in your neighborhood before the war? A. I never heard of him.
Q. Did you see him down on Red River during the war? A. No sir.

MR. NEAL:

Q. You say you and your brother went off and left the women folks there? A. Yes sir.
Q. You mean the slaves? A. Yes sir.
Q. You also said that they all went north? A. Yes sir.
Q. Do you knowwhere they went? A. I don't know only what they told me. After the war they told me they went to Fort Scott. One of the men told me that.
Q. You don't know of your own personal knowledge, where they went? A. No sir, I just have their word.
Q. You say that one of the men told you? A. Yes sir, Dick and Mose both told me that the women folks were all in Fort Scott.
Q. You said the men folks all went north? A. Yes sir, they went north first -- before we left.
Q. All you know about where the women folks went is what Dick and Mose told you, and they left before you did? A. Yes sir.
Q. You say your father didn't own any slave by the name of Nancy? A. No sir.
Q. Did he own one by the name of Nannie? A. Yes sir, there was a little girl by the name of Nannie.
Q. How old do you say you are? A. 53.
Q. That would make you how old when the war broke out? A. Between 9 and 10.
Q. You were acquainted with all of your father's slaves, were you? A. Yes sir.
Q. Knew all of the children? A. Yes sir.
Q. How many children did Rachel have? A. 3 or 4 -- I don't know just exactly whether it was 3 or 4.
Q. How many children did Sookie have? A. There was Charlotte, Liza, Lucy, and Mary.
Q. There was a slave there named Frenie? A. Yes sir, but I have forgot which woman was her mother.

Q. How many children did Frenie have? A. One.
Q. Of your knowledge, you don't know where your father's slaves went? A. Not only what they told me. They told me they went north.
Q. You never have seen any of the women folks since then? A. Not since the war.
Q. You don't know where they are now, do you? A. Not for certain. I never have been right to their houses.
Q. You never have spoken to one of the negro women that belonged to your father, since the war? A. No sir.
Q. The only slaves of your father's that you have seen are Mose and Dick? A. Yes sir.
Q. How many slaves did your father have when the war broke out? A. I would have to count them up.
Q. About how many? A. I guess there were 18 or 20, children and all.
Q. You have named four children of Rachel's --- A. As well as I recollect, I said there were that many.
Q. Five of Sookie's A. Yes sir.
Q. And one of Frenie's? A. Yes sir.
Q. How many more children were there? A. There was one by the name of Charlotte that had one or two children I think.
Q. Do you think that, being only 9 or 10 years old, you would recognize a woman 55 or 60 years old who was a girl at the outbreak of the war? A. I guess not.
Q. Then you don't know anything about Martha Albert -- anything about who she is, or anything about her? A. No sir.
Q. If she belonged to your father you don't know it? A. No sir.

MR. HASTINGS:

Q. You know your father didn't have a grown woman, with children, by the name of Nancy when the war came up? A. No sir, he didn't.

COMMISSION:

Q. You have testified in this case before? A. Yes sir.
Q. Are you the Wat Whitmire that testified at Fort Gibson in 1901? A. Yes sir.
Q. Do you know this man, Dillingham? A. No sir, I have heard of him frequently.
Q. Did he live in your neighborhood? A. I think not. I have heard my father speak of him.
Q. You do not know how near he lived to your home, do you? A. No sir, I know the place they said he lived on.
Q. You know this Andy Alberty that testified here awhile ago? A. Yes sir.
Q. Did you know him before the war? A. No sir.
Q. When was the first time you ever knew him? A. Since the war I got acquainted with him.
Q. You don't know whether he was in the habit of visiting your father's house or not? A. No sir.
Q. Your mother's name was Lottie? A. Charlotte.
Q. You belonged to the second marriage? A. No, the first.

MR. NEAL:

Q. How long before the war was it that your father married Tempie? A. I don't recollect just when it was. I was a boy, up and running around, I guess two or three or four years old. It was anyway, three or four years before the war.
Q. You were about 9 or 10 when the war broke out? A. Yes sir.

MR. HASTINGS:

Q. Was there any other Johnson Whitmire living around there before the war? A. No sir.

COMMISSION:

Q. Do you know what year it was that you went to Red River? A. No sir, I don't.
Q. What is your best judgment as to what year it was? A. It would have to be a round about guess. I guess it was the second year of the war.
Q. Do you remember distinctly about going to the Choctaw Nation? A. Yes sir.
Q. You remember the trip down there, and the people you met down there? A. Yes sir.

WITNESS EXCUSED.

Cale Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Cale Wright.
Q. Where do you live? A. Tahlequah.
Q. How old are you? A. I am 59.
Q. What was your father's name? A. Cornelius Wright.
Q. Were you living with your father when the war came up? A. Yes sir.
Q. Where? A. About 3 or 4 miles west of Dutch Mills, on the Cherokee side.
Q. What District? A. Going Snake.
Q. How far from Barren Fork? A. About two and a half miles, I guess.
Q. Where did your father go during the war? A. South.
Q. Did you go with him? A. I didn't exactly start with him, but I got with him at Fort Smith when he was on the way.
Q. Did you continue on the trip with him? A. Yes sir.
Q. Where did you go to? A. The first place we stopped at was Armstrong's Academy in the Choctaw Nation, then we moved from there down to 10 miles south of Doaksville, near Red River.
Q. Do you know this applicant, Martha Albert? A. No.
Q. She has testified that she and her mother, Nancy went south with your father during the war, and that her mother, Nancy, belonged to Johnson Whitmire, as well as herself, at the beginning of the war? Is that True? Did a Nancy Whitmire, who had one or two children, go south with your father? A. They were not with him when I came up with him.
Q. Did they have a Nancy Whitmire anywhere on that trip? A. No sir.
Q. Were you ever about Johnson Whitmire's place before the war? A. Yes sir, I boarded there and went to school two sessions.
Q. And you lived in his neighborhood? A. Yes sir, within five miles.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a slave by the name of Nancy who had some children when the war came up? A. No sir, I never heard of that name while I was there going to school.
Q. You lived in the same neighborhood? A. Yes sir.
Q. You are related to Johnson Whitmire? A. I suppose we were distantly related, but I don't know how much.
Q. You do not know the degree of relationship? A. No sir.

Q. Did you ever see this applicant down south after the war or during the war? A. I am just looking at her. Let me talk to her some and see.
Q. Are you satisfied, from the conversation that you have had with her, that she was with your father down south? A. No, she could not have been.
Q. Did your know this Andy Alberty? A. Yes sir.
Q. How far did he live from Johnson Whitmire before the war? A. It must have been 8 miles, across the mountain.
Q. You swear positively that you father didnot have a woman by the name of Nancy, and her child, that belonged to Johnson Whitmire, down on Red River during the war? A. No sir.

Applicant to witness --- Was Arthur with you? A. No.
Q. Was Rose? A. Yes, there was a Rose -- Lucindy's daughter.
Q. Was Jinnie with you? A. Jinnie died in '61.

MR. HASTINGS:

Q. You know that no Nancy Whitmire went south with your father? A. No sir.

MR. NEAL:

Q. You said just now that you judge from your conversation with the applicant, that she couldn't have been with your father down there? A. No sir, she couldn't.
Q. The reason that you say she was not with your father is because she doesn't seem to know enough about the people? A. That is it.
Q. Upon that you base your judgment? A. Yes sir.
Q. There were a good many slaves that went with your father down there? A. Yes sir, several.
Q. Did any of the Whitmire niggers go with your father? A. No. The Whitmire's went out there themselves and we all went to ourselves, and at last we all got into the same neighborhood before we started back.
Q. You didn't go out the Territory at all? A. No, we stopped on the north side of the river in the Choctaw Nation.
Q. You say that you boarded at Johnson Whitmire's and went to school, and you say he had no slave named Nancy -- name some of his slaves --- A. You call them off.
Q. I want you to call them off? A. He had Hannah, Myra, Fronie, Rachel, Ibby, Mary, and there might have been some young ones, but those are the elder ones.
Q. Didn't he have one named Jane? A. Not that I know of.
Q. Didn't he have one named Hattie? A. No.
Q. Didn't he have one named Nannie? A. Well, I don't know, but if he did she must have been mighty small.
Q. Didn't he have one named Sookie? A. Yes, there was one named Sookie.
Q. Do you know the names of any of the men? A. Yes, there was Dick, Rose, Mike, Frank, and Mark.
Q. What was Johnson Whitmire's wife's name when the war came up? A. Her name was Sampie.
Q. Were you acquainted with his first wife? A. No, she was dead long before I could remember her.
Q. How old were you when you boarded there? A. It was along in '56. I was a good big chap.
Q. You remember the names of all of these slaves by having boarded there? A. Yes sir.
Q. How far did you live from there? A. About 8 miles, I reckon. In our country we had what we called bridle ways that were

nearer, but it was about 5 miles around.

MR. HASTINGS:

Q. Did you mean in the year '59 or between '50 and '60? A. Yes sir, that is it -- between '59 and '60.
Q. About how long before the war? A. I couldn't tell that. The war broke out in '61, and it must have been three or four years before the war.
Q. Were you there frequently besides boarding there? A. Yes sir.

MR. NEAL:

Q. You said when you were south on Red River that the Whitmire folks got into the same neighborhood? A. Yes sir.
Q. And some of the slaves were there? A. Yes sir.
Q. Old man Johnson Whitmire didn't carry out any slaves? A. I think George had a slave or two.
Q. You say that none of Johnson Whitmire's slaves were there? A. No, they all went north.

COMMISSION:

Q. Have you ever seen this woman before, to your knowledge? A. No sir, I don't know anything about her.
Q. How far do you live from Melvin? A. I live up to Tahlequah, and I don't know just how far it is.
Q. Do you know any of these applicants --- any of this woman's children? A. No sir.

WITNESS EXCUSED.

J. W. Alberty, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. J. W. Alberty.
Q. What is your post office? A. Westville.
Q. How old are you? A. Well sir, I will be 71 years old the 25th day of July.
Q. This is the case of Martha Albert, in which you have given testimony before? A. Yes sir.
Q. You knew Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. Six or seven miles.
Q. You testified about the sale of some slaves to a man by the name of Dillingham? A. Yes sir.
Q. About when did he sell them to Dillingham? A. It was either in '47 or '48.
Q. Do you know this applicant here? A. No sir.
Q. She has testified that her mother was named Nancy and that her father was named Charley Rowland. Did you know the Nancy, the alleged wife of Charley Rowland? A. Yes sir.
Q. Who did she belong to? A. Old man Dillingham moved the Texas and took this family with him.
Q. To whom did she previously belong? A. To Johnson Whitmire.
Q. And Dillingham acquired her from Johnson Whitmire in the year of 1847 or 1848? A. Yes sir.
Q. Are you certain that her name was Nancy? A. Yes sir.
Q. What became of Charley Rowland? A. He went with Dillingham.
Q. Do you know whether Nancy had more children? A. She had two or three.
Q. You don't know whether this applicant was one of them or not? A. No sir.

Q. Did Johnson Whitmire have a grown slave by the name of Nancy when the war came up? A. No sir, not that I know of.
Q. You were familiar with him? A. Yes sir.
Q. Are you prepared to say that Charley Bowland was not in that country when the war came up? A. Yes sir.
Q. Do you know Andy Alberty? A. Yes sir.
Q. Is he a relative of yours? A. Yes sir.
Q. Where did he live before the war? A. He lived right close to Oak Grove school house.
Q. How far from Johnson Whitmire's? A. Between 7 and 8 miles.
Q. Then Nancy, the wife of Charley Bowland, was taken south? A. Yes sir.
Q. What was the citizenship of Dillingham? A. He wasn't no citizen at all, he was just a white man.
Q. Well, he was a United States citizen, A. Yes sir.
Q. Where did he live in '49 or '50? A. Before he went to Texas he lived in Arkansas.

MR. NEAL:

Q. You lived closer to Dillingham that you did to Johnson Whitmire didn't you? A. Yes sir.
Q. You were better acquainted with Dillingham's slaves than you were with Johnson Whitmire's? A. Yes sir.
Q. You knew more about this woman after Dillingham bought her than you did when she belonged to Johnson Whitmire? A. Yes sir.

WITNESS EXCUSED.

Jeff Catcher (Tik-nee-sky), being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Jeff Catcher.
Q. What is your post office? A. Stilwell.
Q. How old are you? A. I was 65 the 15th day of last month.
Q. Are you a Cherokee citizen? A. Yes sir.
Q. You are also known as Jeff Tik-nee-sky? A. Yes sir, that is my Cherokee name.
Q. Where did you live before the war? A. In Going Snake District on Pea Vine.
Q. Close to where you live now? A. About 300 yards west of where I live now.
Q. Did you know Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. It was about three quarters of a mile, I reckon, maybe a leetle over.
Q. Were you a soldier in the Army? A. Yes sir.
Q. You were about grown when the war came up? A. Yes sir.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman by the name of Nancy, who had some children, when the war came up? A. No sir, I don't recollect one by that name.
Q. Were you frequently at his house? A. Pretty near all the time. Once a week anyhow. I was there pretty much all the time.
Q. Do you know this applicant, who gives her name as Martha Albert? A. No sir.
Q. Did you ever see her before? A. No sir.
Q. Did you know a white man that lived across the line by the name of Dillingham before the war? A. No, I never saw him, but I

have heard him talked of a good deal.

Q. You were too small to remember him? A. Yes sir, but I have heard of him.

Q. You don't know whether he bought some slaves of Johnson Whitmire or not? A. I don't know. He didn't after I got big enough to recollect.

Q. Did Johnson Whitmire, when the war came up, have a woman by the name of Nancy? A. No sir.

Q. What army were you in? A. The Federal army.

Q. Do you know Andy Alberty? He just testified here awhile ago? A. Yes sir.

Q. How far did he live from Johnson Whitmire? A. Between 7 and 8 miles.

Q. Did you know a free colored man in that country by the name of Charley Bowland? A. I have heard of him, but I don't recollect him.

Q. He wasn't there just before the war? A. No sir.

MR. NEAL:

Q. You say that you don't remember a woman named Nancy that belonged to Johnson Whitmire? A. No sir.

Q. You don't mean to say that he didn't have one by that name, but that you just don't remember her? A. If he had one it must have been a small child, for I know all the old ones. I think I can name all the old ones.

Q. Name them? A. The old women that I knew was Myra, Ma, Sookie, Hannah, Rachel, Fronie, Mary, Charlotte, and the balance were small and I don't recollect their names.

MR. HASTINGS:

Q. Was Andy Alberty over to see you lately to see about this case? A. Yes sir, last Sunday.

Q. What did he say to you? A. He asked me if I knew of Mr. Whitmire having a woman by the name of Nancy.

Q. What did he say about it? A. He didn't say that he knew anything about it. He just wanted to find somebody that knew them.

Q. Did he say that he knew one at that time by the name of Nancy? A. He didn't say whether he did or not? He just wanted to find somebody that did know her. I told him I didn't think Johnson Whitmire owned any nigger by that name.

Q. That is the same Andy Alberty that you saw out there in the hall who has just testified here? A. Yes sir.

MR. NEAL:

Q. As soon as Mr Alberty told you that he wanted to get witnesses who knew this woman who did you go and tell about it? A. I told him that there was an old woman up there, Susie Walkingstick, and that if anybody would know about it she would for she was older than I was. I said, for my part, I didn't know anything about it. Afterwards, I saw him and told him that what I know was not in his favor, but will go against him, for I was there and knew all about his niggers.

Q. You sent him around to see Susie Walkingstick, and told him that if he owned one by that name it was before you could remember? A. Yes sir.

Q. And then you chased out to see if they wanted witnesses for the Nation? A. No sir.

CROSS-EXAMINATION:

Q. How big a place did Johnson Whitmire have? A. About 75 acres in cultivation.
Q. About how many slaves did he have at the beginning of the war? A. He must have had 15 or 20.
Q. Whatthat the only place he had in the Cherokee Nation? A. Yes sir.
Q. Did he have a plantation anywhere else? A. Nothing only a cattle ranch down about Webbers Falls. He and his brother George had a ranch together. They both owned slaves.
Q. He didn't have any female niggers down at the ranch? A. No sir.
Q. You are postive that these are the only two places he had? A. Yes sir.

WITNESS EXCUSED.

Charlotte Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charlotte Wright.
Q. What is your post office? A. Christie.
Q. How old are you? A. 58.
Q. What was your maiden name? A. Whitmire.
Q. Who was your father? A. George Whitmire.
Q. What relation was he to Johnson Whitmire? A. A brother.
Q. Where did you live before the war? A. I lived on Barren Fork. West of the Barren Fork station and east of Christie.
Q. How far from where you are living now ? A. About a mile and a half.
Q. You have lived there all your life? A. Except when I was south during the war.
Q. Did you go south? A. Yes sir, we were gone four years.
Q. Where did you go? A. To Red River -- near Denham, only we were on the Choctaw side.
Q. Did you know Cornelius Wright before the war? A. Yes sir.
Q. Did you see him down on Red River? A. Yes sir.
Q. Do you know Cale Wright? A. Yes sir.
Q. You saw these people down south during the war? A. Yes sir, we got to be neighbors down there.
Q. Did Johnson Whitmire have some slaves before the war? A. Yes sir.
Q. Do you know this applicant here? A. I don't recognize her.
Q. Did Johnson Whitmire have a grown woman slave by the name of Nancy when the war came up? A. I don't remember her.
Q. Was there a free colored man in the neighborhood, by the name of Charley Rowland, when the war came up? A. I never heard of it.
Q. This applicant gives her mother's name as Nancy and her father's name as Charley Rowland? A. I never knew them.
Q. Do you state that Johnson Whitmire had any slave by the name of Nancy, who had some children, when the war came up? A. If hedid I don't know it.
Q. He was your uncle? A. Yes sir.
Q. Were you frequently at his house? A. Yes sir.
Q. How far did your father live from him? A. I guess it was 5 or 6 miles.
Q. You lived in the same neighborhood? A. Yes sir.
Q. And you were frequently at your uncle's place? A. Yes sir.
Q. Would you stay any length of time A. As long as a week.
Q. You knew his family and slaves? A. Yes sir.

Q. They never had one by the name of Nancy that you know of? A. No sir.
Q. Did you see any slaves down south with Cornelius Wright, and among them one named Nancy who claimed to belong to your uncle Johnson before the war? A. No sir, none of his slaves went south that I know of. They all left him.
Q. You didn't see any down there that claimed to have belonged to him? A. Nos sir.
Q. You do not remember to have ever seen this applicant before? A. No sir.
Q.

MR. NEAL:

Q. You have not seen any pf Johnson Whitmire's female slaves since the war, have you? A. No sir.
Q. You probably wouldn't remember a girl that was 4 or 5 years old? A. I think I would recognize her. I could be mistaken, but I think I would recognise her.
Q. How old were you when the war broke out? A. I was 14 years old whenwe had to leave home.
Q. You say that if Johnson Whitmire had a slave by the name of Nancy you don't know anything about it? A. No sir .
Q. You don't know that he didn't have any one by that name, but you just don't know about it? A. I never saw one by thatname on the place, and I don't think he had one by that name. I don't recollect anything about it, and never heard anything about it.
Q. You don't know positively that he didn't have one by that name? A. No sir, he didn't have one by that name that I knew of. He didn't have one at home, and I don't think he had any away from home. I never heard of it if he did. But I know there was no one on the place by that name.

WITNESS EXCUSED.

Charles Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charles Whitmire.
Q. What is your post office? A. Proctor.
Q. How old are you? A. 56 I reckon.
Q. Are you younger than your sister Mrs. Wright? A. Yes sir.
Q. She was your sister? A. Yes sir, she was always recognized as my sister.
Q. You are the son of George Whitmire? A. Yes sir.
Q. Johnson Whitmire was your uncle? A. Yes sir.
Q. Do you remember Johnson Whitmire before the war? A. Yes sir.
Q. About how old were you when the war came up? A. I couldn't tell you -- 12 or 14 I guess.
Q. Were you about Johnson Whitmire's frequently? A. Yes sir, I stayed there a right smart and went to school from his house.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman slave who had some children, by the name of Nancy, when the war came up? A. Not that I remember.
Q. Well, if he had had one that was old enough to be, and was the mother of some children would you have known it? A. Yes sir, I think I knowed all of the older ones.
Q. You didn't know one by the name of Nancy? A. No sir.
Q. Do you know this applicant here? A. No sir.
Q. Did you ever see her before. A. Not that I remember.
Q. Did you ever know a free colored person by the name of Charley

Rowland in that country? A. No sir.
Q. Then of course you never knew his wife, Nancy? A. No sir.
Q. Did you say that you stayed at Johnson Whitmire's and went to school? A. Yes sir.
Q. Do you know Johnson Whitmire's wife and family? A. Yes sir.
Q. Is Watt one of the children? A. Yes sir.
Q. Where did you go during the war? A. I went south to Red River.
Q. Did you know Cornelius Wright? A. Yes sir.
Q. Did you see him down there? A. Yes sir.
Q. Was he CaleWright's father? A. Yes sir.
Q. Did he carry any of Johnson Whitmire's slaves down south with him? A. No sir.
Q. It has been sworn that he took some of Johnson Whitmire's slaves and among them was this woman, Nancy, and this applicant. Is that true? A. If he did, he didn't have them when we got to where they were.
Q. You were not old enough to know a white man by the name of Dillingham, were you? A. No sir.

MR. NEAL:

Q. How old did you say you are? A. 56, if I am not mistaken.
Q. You are older than your sister? A. No sir.
Q. Who else was boarding down there and going to school? A. Nobody but me and his boy went to school. Sometimes aunt Tempie had two sisters that stayed there and went to school.
Q. When were you there? A. I don't know.
Q. Were you there off and on for four or five years before the war? A. I don't know.
Q. Did you stay there more than one year? A. I went from there for two or three sessions.
Q. You never happened to be there when anybody else was boarding there? A. I was there when aunt Tempie's sisters were there. I don't remember any body else.
Q. How many years before the war was it? A. I am not able to tell you what year it was. I stayed at home some, and then I didn't get to go to school but very little.
Q. Your cousin, Cale, boarded down there and went to school, didn't he? A. I couldn't say whether he did or not. If he went to school, from there when I did I don't remember it.
Q. You said that you were of the opinion that Johnson Whitmire had no slavebythe name of Nancy who was old enough to have children at that time? A. No sir.
Q. If he did, you don't remember it? A. No sir. I don't remember any of the folks on the place calling one by that name.

MR. HASTINGS:

Q. If there had been one there by that name would you have known it? A. Yes sir.

MR. NEAL:

Q. You would remember it all these years would you? A. I don't know, but I think I would. I remember the names of all of the older ones.

COMMISSION:

Q. Where was this school? A. On Barren Fork, on Pea Vine.

Q. How far from Johnson Whitmire's ? A. About a mile and a half
Q. Who had this school? A. An old missionary lady taught the school. I don'r remember her name.
Q. Was it a kind of a convent school? A. It was kept up by the Cherokee Nation. It was a public school.
Q. How far away was the nearest school to it? A. I couldn't say positively just how far away. I expect it was 8 miles. I wouldn't be positive , but I expect it was that far.
Q. Was Johnson Whitmire in the habit of taking boarders to attend school? A. Yes sir, and so did my father.
Q. You were convenient to the school, and the people from the neighboring vicinity sent their children over there to board and go to school. A. Yes sir.

MR. NEAL:

Q. You say your father kept boarders? A. Yes sir.
Q. How did it happen that you didn't board at home? A. My uncle had a boy, and had nobody to go to school with him, so I was sent over to go to school with this boy.
Q. How near did your father live to the school? A. About four miles, but he built a house about three quarters of a mile from the schoolhouse where he kept the teacher and boarders.

WITNESS EXCUSED.

(Mr. Neal -- I would like that the case be held open until I can introduce one other witness, the Martha Williams who was actually sold to Dillingham, and if I can get her, I will bring Suzie Walkingstick.

By consent and agreement, this case is continued to May 11, 1905, at 1:30 o'clock, P. M.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 27th day of April, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

(Signed) Eula Jeanes Branson.

Subscribed and sworn to before me this the 29th day of April, 1905.

(Signed) Byron White
Notary Public

I, [illegible], being duly sworn, state that I am stenographer to the [illegible] in the Five Civilized Tribes, and made the above and foregoing notes, and that the same is a true and complete copy of the original transcript.

[illegible]

Subscribed and sworn to before me this 19th day of May 1906.

[illegible]
Notary Public.

[illegible]
COPY
[illegible]

CTR 420

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that she is an important witness, and does not state what is expected to be proven by her, so that the Commission can pass upon the materiality and admissability of the testimony;

IT IS THEREFORE ORDERED: Because the certificate of the attending physician

CONTINUED:

The motion for continuance will be taken under advisement, and the attorneys will be notified by mail.

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Main Issue Examination, Gary Amyin, Creek Nation

As stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 11th. day of May, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

FILED
MAY 17 1905
COMMISSION TO FIVE TRIBES

Subscribed and sworn to before me this 16 day of May, 1905.

Notary Public.

Cherokee Freedmen R-418 to 431, inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, May 11, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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Neal & London, attorneys for the applicants.

Bell, Hastings & Davenport, attorneys for the Cherokee Nation.

COMMISSION.

On this, the 11th. day of May, this cause coming on to be heard, the applicants appear neither in person nor by attorney. The Cherokee Nation, represented by W. W. Hastings, introduces the following testimony:

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Aaron Whitmire, being duly sworn, testified as follows on behalf of the Cherokee Nation:

MR. HASTINGS:

Q. Your name is Aaron Whitmire? A. Yes sir.
Q. You are a freedman citizen of the Cherokee Nation? A. Yes sir.
Q. How old are you? A. About 69.
Q. To whom did you belong when the war came up? A. George Whitmire.
Q. What relation was George to Johnson Whitmire? A. They were brothers.
Q. How far did they live apart? A. About four miles when the war came up.
Q. In what District? A. Going Snake.
Q. Did they use to live together? A. Yes sir, till they married.
Q. Were you familiar with Johnson Whitmire's slaves? A. Yes sir.
Q. Did you ever know a slave that he had there by the name of Nancy Who had Charley Rowland, a free colored man, for her husband? A. Yes sir.
Q. What became of Nancy? A. She was sold to a man by the name of Dillingham.
Q. What was Dillingham's citizenship? A. A citizen of the United States.

Q. Where did he live? A. Right on the line of -- or close to the line of Arkansas.
Q. Did this Nancy have any children when she was sold? A. I think she had one, is all I recollect.
Q. What was that child's name? A. Martha.
Q. Now, I refer to the Nancy who had a husband by the name of Charley Bowland, a free colored man? A. Yes sir, and so do I.
Q. About how long before the war was it that she was sold to Dillingham? A. As near as I can recollect, it must have been 8 or 10 years or more.
Q. Did Dillingham continue to live over there in Arkansas until the war came up? A. No sir.
Q. What became of him? A. He went to Texas before the war come up.
Q. Aaron, it has been alleged here that Johnson Whitmire had another Martha whose mother was Dicy, and that Dicy and that Martha were sold instead of this Martha and Nancy. Did he have another woman by the name of Dicy? A. Yes sir.
Q. Did he have her when the war came up? A. No sir, she was dead.
Q. Did he sell her to Dillingham? A. No sir.
Q. When did she die? A. Before the war, and before Nancy was sold.
Q. Did Dicy have any children? A. One.
Q. What was its name? A. Cinthy.
Q. What became of Cinthy? A. She was sold to a man by the name of Russell who lived in Arkansas.
Q. About how long before the war was she sold? A. 6 or 8 years.
Q. Did Johnson Whitmire have any other Dicy? A. No sir, never did.
Q. Did you ever hear of his selling a Dicy to Dillingham? A. No sir.
Q. Did you ever hear of his selling a little girl by the name of Martha, besides this one? A. No sir, this was the only Martha on the place.
Q. Did he have a Martha when the war came up? A. No sir.
Q. Did you ever see the applicant who gives her name as Martha Albert, who is the wife of Collie Albert? A. I haven't seen her since she was sold.
Q. Did Charley Bowland go to Texas? A. Yes sir.
Q. Was he in the Going Snake country when the war came up? A. No sir, I never did see him after he went to Texas.

Q. What became of Johnson Whitmire's slaves? Did any of them go to Texas? A. No sir.
Q. What became of his women slaves? A. They went north.
Q. Who took them north? A. They went off with the soldiers.
Q. How long did you remain up there at the old Whitmire place? A. Till '64.
Q. Then you went to Kansas? A. Yes sir.
Q. Had all of Johnson Whitmire's slaves gone north with the soldiers? A. All but two, and they were with me. They were two very old women -- Amy and Myra.
Q. Had Cornelius Wright gone south? A. Yes sir.
Q. He took his slaves with him? A. Yes sir.
Q. Did Johnson Whitmire have any other Nancy or Nannie other then the one he sold to Dillingham? A. Yes sir, he had a little girl called Nannie.
Q. Who was her mother? A. Sookey.
Q. What was Sookey's name? A. Smith.
Q. What was her husband's name? A. Moze Smith. He is dead.
Q. Where does she live? A. Up here on Big Creek in Coweescoowee District.

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COMMISSION:

Q. How many slaves did Johnson Whitmire have at the beginning of the war? A. He had some 20 or 25.
Q. Can you give their names? A. I could name the old ones.
Q. Give me the names? A. The first old woman was Amy, Myra, Hannah, Sookey, Kizzy, Mike, Dick, Martin, Mose, Sapharonie, Rachel, Charlotte, Lisa, Aby, Frank, Nannie. That is about all I can recollect.
Q. These are all the older ones? A. Yes sir.
Q. The younger ones you do not remember? A. I cannot recollect them.
Q. How many of these slaves do you know of that are living now, of these 15 or 16 you have just named? A. I don't know of but two that are living.
Q. Where are they? A. Up on Big Creek.
Q. What are their names? A. Nannie Smith and Frank Whitmire.
Q. Where does Frank live? A. On Big Creek.
Q. How old a man is he? A. I don't know just how old a man he is -- right at 60 I guess.
Q. Do you know Martha Williams? A. No sir.
Q. Are you positive that at the breaking out of the war, Johnson Whitmire did not have a slave by the name of Martha? A. Yes sir.
Q. Do you know whether he had a child slave by that name? A. No sir, there was not one by the name of Martha.
Q. You know that of your own knowledge? A. Yes sir.
Q. You mentioned in your testimony about a Nancy who had a daughter called Martha, and that they were sold to Dillingham. Have you ever seen them since that time? A. I never have.
Q. Do you know who this applicant is -- have you seen her? A. I don't know that I would know Martha if I saw her.
Q. How far do you live from Fort Smith? A. I live away up near the Kansas line.
Q. Did you say you knew Charley Bowland? A. Well.
Q. Was he a free colored person? A. Yes sir.
Q. And you know that he married one of Johnson Whitmire's slaves named Nancy? A. Yes sir.
Q. You cannot be mistaken about that? A. No sir.

WITNESS EXCUSED.

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COMMISSION:

After the introduction of the above testimony by the Cherokee Nation, the attorneys for the applicants appeared, by their stenographer, Miss Sorenson, and filed with the Commission a motion for continuance.

MR. HASTINGS:

The Attorneys for the Cherokee Nation object to the motion for continuance, filed in this case, for a number of reasons, to-wit:

FIRST: -- This case has been continued a number of times upon motion and at the request of the applicants;

SECOND: -- The motion for continuance is not sworn to;

THIRD: -- The motion for continuance does not set up what is expected to be proven by the said Martha Williams, but only states

that she is an important witness, and does not state what is expected to be proven by her, so that the Commission can pass upon the materiality and admissability of the testimony;

FOURTH: -- Because the certificate of the attesting Physician, [illegible]

COMMISSION:

The motion for continuance will be taken under advisement, and the attorneys will be notified by mail.

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Eula Jeanes Swanson, being duly sworn, states that, as Stenographer to the Commission in the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 14th. day of May, 1908, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Swanson

Subscribed and sworn to before me this the 16 day of May, 1908.

[illegible]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Martha Albert, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

| | | |
|---|---|---|
| Martha Albert, et al., | Cherokee Freedmen | D- 42 |
| Robert Barnes, | Cherokee Freedmen | D- 99 |
| Lula Knalls, et al., | Cherokee Freedmen | D-100 |
| Nancy Borkum, et al., | Cherokee Freedmen | D-101 |
| Henry Albert, et al., | Cherokee Freedmen | D-102 |
| John Barnes, et al., | Cherokee Freedmen | D-103 |
| Jerry Albert, | Cherokee Freedmen | D-104 |
| Lillie White, et al., | Cherokee Freedmen | D-105 |
| Malinda McLain, et al., | Cherokee Freedmen | D-114 |
| Frank Gardner, | Cherokee Freedmen | D-146 |
| Joshua Barnes, | Cherokee Freedmen | D-150 |
| Sarah Brown, et al., | Cherokee Freedmen | D-151 |
| Minnie Barnes, | Cherokee Freedmen | D-152 |
| Maggie Bell, et al., | Cherokee Freedmen | D-162 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Martha Albert, for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls, for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Borkum, for herself and minor children, Annie and Walter Borkum; by Henry Albert, for himself and minor children, Harry and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes, for himself and minor child, Cussie A. Barnes; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert, for himself; by Lillie White, for herself and minor children, Mattie and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Annie White; by Charley McLain, for his wife, Malinda McLain, and minor children, Emmett, Ella, Christiana, Charles, Turner and Jeannetta McLain; by Frank Gardner, for himself; by Joshua Barnes, for himself; by Sarah Brown, for herself and minor child, Maggie Williams; by Minnie Barnes, for herself; by George C. Bell, for his wife, Maggie Bell; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George B. Bell.

The evidence shows that the applicant, Martha Albert, and her sister, Jennie Barnes, now deceased, were not slaves of Cherokee citizens or free colored persons residing in the Cherokee Nation at the commencement of the war of the rebellion. All the other applicants herein have been born since the commencement of the rebellion and are descendants of and claim right to enrollment through either the said Martha Albert or Jennie Barnes.

None of the names of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Martha Albert, Mitch Albert, Ida Albert, Robert Barnes, Lula Knabb, Sarah Brown, Fred L. Knabb, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Mila McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee Freedmen, should be denied under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.

(SIGNED) T. B. Needles.

(SIGNED) D. R. Breckinridge.

(SIGNED) W. E. Stanley.

Muskogee, Indian Territory,

this JUL 10 1903

JAN 11 1904

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Martha Albert, et al., as Cherokee freedmen, consolidating the applications of:

| | | | | |
|---|---|---|---|---|
| Martha Albert et al., | Cherokee Freedmen | | D 42 | F 43 |
| Robert Barnett, | " | " | D 89 | F 43 |
| Lula Hualla et al., | " | " | D 100 | F 106 |
| Henry Bertram et al., | " | " | D 101 | F 107 |
| Henry Albert et al., | " | " | D 102 | F 108 |
| John Barnes et al., | " | " | D 103 | F 109 |
| Jerry Albert | " | " | D 104 | F 110 |
| Lillie White et al., | " | " | D 200 | F 124 |
| Malinda Hotkin et al., | " | " | D 114 | F 120 |
| Frank Gardner | " | " | D 146 | F 148 |
| Joshua Barnes | " | " | D 180 | F 182 |
| Martha Bryan et al., | " | " | D 181 | F 183 |
| Minnie Barnes | " | " | D 182 | F 184 |
| Maggie Bell et al., | " | " | D 185 | F 187 |

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DECISION.

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THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee freedmen were made by the Commissioner to the Five Civilized Tribes by Martha Albert for herself and minor children, Elijah and Ida Albert; by Robert Barnett for himself; by Lula Hualla for herself and minor children, Sarah Freeman and Noah M. Hualla; by Henry Bertram for herself and minor children, Annie and Walter Bertram; by Henry Albert, for himself and minor

children, Harry and Raymond Albert, thereafter, on October 31, 1902, there was filed with the Commission an affidavit showing the birth, on June 4, 1902, of Lewey Albert, son of the applicant, Henry Albert; by John Barnes for himself and minor child, Gussie A. Barnes, thereafter, on August 20, 1902, there was filed with the Commission an affidavit showing the birth, on June 15, 1902, of John A. Barnes, son of the applicant, John Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie and Nancy White, thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on March 8, 1902, of Amos White, son of the applicant, Lillie White; by Charles McLain for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain, thereafter, on September 1, 1901, there was filed with the Commission an affidavit showing the birth, on May 17, 1901, of Mattie McLain, daughter of the applicant, Malinda McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; and by George C. Bell for his wife, Maggie Bell, thereafter, on November 7, 1901, there was filed with the Commission an affidavit showing the birth, on September 18, 1901, of George L. Bell, son of the applicant, Maggie Bell.

THE RECORDS FURTHER SHOW: That on January 11, 1904, the Commission rendered its decision herein, denying said applicants, except Mattie McLain, whose rights to enrollment through an oversight, were not considered, the right to enrollment as Cherokee freedmen, and that on June 21, 1904 (Departmental letter I.T.D. 4732-04), said decision was duly affirmed by the Department; that, thereafter, on March 25, 1905 (Departmental letter I.T.D. 1332-05), on motion of the applicants, this case was reopened by the Department, and remanded for further testimony and readjudication; and that, thereafter, on April 13, and 27, and May 11, and June 22, 1905, further proceedings in the matter of said applications were had at Muskogee, Indian Territory.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Martha Albert, claims the right to enrollment as a Cherokee freedman by virtue of her compliance with the treaty stipulations of 1866, and that all the other applicants herein claim the same right as descendants of the said Martha Albert and one Jennie Barnes, deceased, who, it is alleged, complied with said treaty stipulations of 1866.

The following points are fully established by the evidence, no attempt having been made to disprove them:

(1) That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were full sisters, and were born prior to the commencement of the rebellion.

(2) That all the other applicants herein were born since the commencement of the rebellion, are lineal descendants of the applicant, Martha Albert, and the said Jennie Barnes, deceased, and possess no rights to enrollment as Cherokee freedmen o ether than as such descendants.

( The records of this office fail to show that Ruth Barnes, mother of the applicants, Gussie A. and John A. Barnes, has ever made application for enrollment as a Cherokee freedman. Her mother, Millie White, and full sister, Viola White, and full brothers, Jim H. and Harry White, were originally listed for enrollment as Cherokee freedmen on Memorandum cards Nos. 10, 13, and 14, and were later transferred to Freedmen Rejected cards Nos. 317, 320 and 321. On April 24, 1905, their applications for enrollment as Cherokee freedmen were denied by the Commission, and record forwarded to the Department.

George C. Bell, father of the minor applicant, George L. Bell, was denied enrollment as a Cherokee freedman, by the Commission, on April 20, 1904, and on May 26, 1904, -Departmental letter I.T.D. 4050-04,- the Commission's decision was approved by the Department).

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the commencement of the rebellion, but, rather, that several years prior to the commencement of said rebellion, they, together with their mother "Nancy", were sold to one Dillingham, a citizen of the United States, were removed from the Cherokee Nation, and it is further shown that they did not return to said Nation on or prior to February 11, 1867. Excepting the Wallace and Kern-Clifton Rolls, none of the applicants herein can be identified on any roll of the Cherokee Nation in the possession of this office.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 ( 30 Stat., 495), Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A.

Martin McLain, Frank Gardner, Joshua Summers, Hank Brown, Maggie Williams, Minnie Barnes, Maggie Dell and George L. Dell, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

Commissioner

Dated at Muskogee, Indian Territory,
this _____

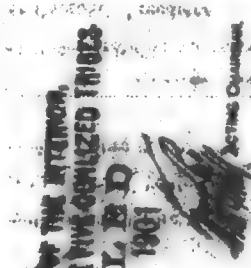
Indian Territory

Cherokee Nation

I, A S. McRae, attorney for the within named applicant do hereby accept service of the within notice to take testimony this 13th day of May 1901.

A S McRae

Atty for the within named applicant.



Indian Territory

Cherokee Nation

I, A S. McRae, attorney for the within named applicant do hereby accept service of the within notice to take testimony this 13th day of May 1901.

A. S. McRae

Atty for the within named applicant.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
MAY 15 1901

ACTING CHAIRMAN

# NOTICE!

In the matter of the application of Lula Knalls for enrollment as a Cherokee Freedman.

Case No. D 100

To Lula Knalls

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on the following dates, to-wit: May 21 & 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 13th day of May 1901.

Bell Hastings & Dawson

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to .....

on the ..... day of ..... A. D. 1901.

Subscribed and sworn to before me this ..... day of ..... 1901.

..... Notary Public.

8

3 D 160

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

MAY 22 1901

Acting Chairman

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, Indian Territory, May 15th, 1901.

Received of the Commission to the Five Civilized Tribes one copy of the original testimony in the matter of the application of Lula Khalls et al for enrollment as Freedmen o fht Cherokee Nation; one copy of the original testimony in the matter of the application of Robert Barnes; one copy of the original and copies of the supplementary testimony in the matter of the application of Marrha Albert et al. The testimony in the Barnes case and Albert case having been made a part of the record in the case of Lula Khalls et al.

A S McRea

Attorney for Applicant.

Cherokee F. #D100.

COPY.

Cherokee F, D.100

Muskogee, Indian Territory, January 11,1904.

Lula Khalls,

Foreman, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11,1904, rejecting, among others, your application for the enrollment of yourself and your two minor children, Sarah French and Fred K. Khalls as Cherokee Freedmen. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Enc. D-24

Commissioner in Charge.

Register.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

A. S. McKen,

Attorney for Martha Albert et als,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Khalls, Sarah Brown, Fred K. Khalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Levey Albert, John Barnes, Cressie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Nattie White, Nancy White, Anna White, [illegible] McLain, Samuel McLain, [illegible], Christiana McLain, Charles McLain, Turner McLain, [illegible], Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, [illegible] Barnes, Maggie Bell and George L. Bell as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior

for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Enc. D-30
Register.

COPY.

Cherokee Freedmen
R-42, et al.

Muskogee, Indian Territory, January 11, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Nile McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Enc. D-31

Commissioner in Charge.

COPY.

Cherokee Freedmen.
D-12 et al.

Muskogee, Indian Territory, January 11, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Martha Albert et al., including the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred R. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewis Albert, John Barnes, Cornie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Hattie White, Nancy White, Anna White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennette McLain, Frank Barnes, Johnson Barnes, Mary Bryan, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

Respectfully,

T. B. Needles

Commissioner in Charge.

Through the Commissioner of Indian Affairs.

Enc. D-29.

D.S. 21473-1904.
I.T.D. 4723-1904.
L R S

W.C.P.
J.P.

DEPARTMENT OF THE INTERIOR,
WASHINGTON, June 21, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

January 12, 1904, you transmitted the record in the consolidated case embracing the applications of Martha Albert et al. (I.T.D.-42), for enrollment as Cherokee freedmen, [redacted] your decision of the same date, rejecting the applications.

Reporting June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department affirms your decision, for the reasons stated therein.

Respectfully,

(Signed) E. A. Hitchcock,
Secretary.

1 inclosure.

Refer in reply to the following:

Land 038[illegible]64. Supp.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 3, 1904.

In re
Application for enrollment
as Cherokee freedmen, viz:

| | | |
|---|---|---|
| Martha Albert, et al | F.D. 43 | Unapplicated. |
| Robert Barnes, | F.D. 69, | |
| Lula Bowling, et al | F.D. 200 | |
| Jenny Barnum, et al. | F.D. 102, | |
| Henry Albert et al, | F.D. 103, | |
| John Bowman, et al, | F.D. 103 | |
| Perry Albert, | F.D. 104, | |
| Lillie White, et al, | F.D. 105 | |
| Matilda Holden, et al, | F.D. 114, | |
| Fred Gardner, | F.D. 116 | |
| Judith Bowman, | F.D. 120 | |
| Sarah Brown, et al. | F.D. 121, | |
| Minnie Barnes, | F.D. 122, | |
| Maggie Bell, et al. | F.D. 123, | |

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith [illegible] report of [illegible] and [illegible] the Commission to the Five Civilized Tribes in the above-entitled cases of Martha Albert et al., affecting the rights of thirty-seven applicants for enrollment as Cherokee freedmen, the Commission in the decision, dated January 13, 1904, on

nied the application of all the applicants in the above named cases, to be enrolled as Cherokee freedmen.

The record shows that applications for enrollment as Cherokee freedmen were made to said Commission by Martha Albert for herself and minor children, [redacted] and [redacted]Albert; by Robert Barnes for himself; by Lula Khalig for herself and minor children, Sarah French and Fred E. Khalig; by Nancy Borkum for herself and minor children, Annie Borkum and Walter Borkum; by Henry Albert for himself and minor children, Harry Albert and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes for himself and minor child, Susie A. Barnes, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Hattie White and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Anna White; by Charles McLain forhis wife, Malinda McLain and his minor children, Samuel, Ella, Christian, Charles, Tumner and Jennette McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown fotherself and minor child, Maggie Williams; by Minnie Barnes for herself; by George C. Hall for his wife Minnie

Hall, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George E. Hall. Claimants base their contention for a right to be enrolled as Cherokee freedmen upon the claim made that the principal applicant Martha Albert and her sister, Jennie Barnes, now deceased, from whom the other applicants claim descent, were at the commencement of the War of the Rebellion the slaves of one Johnson Whitmire, a Cherokee citizen, that during the war these alleged slaves, Martha Albert and Jennie Barnes went South to Red river in the Choctaw Nation where they remained until the Fall of 1866 when they claim to have returned with one Ellis Harlin to the Cherokee Nation and settled with him on the Gale Starr place near Cherokee Junction. The evidence adduced shows that Johnson Whitmire and George Whitmire, brothers and Cherokee citizens, owned before the war several slaves, designated as the "Whitmire darkies". The attempt to identify Martha Albert and Jennie Barnes as one of the "Whitmire darkies" at the commencement of the war has signally failed.

Walt Whitmire, son of Johnson Whitmire, who claims to have known the names of all the slaves of his father, testified that he had no recollection of any two female girl slaves named Martha and Jennie and can not even recall the fact that his father ever owned a slave named Nancy Whitmire, the mother of said girls, Nancy Hall whose master was George Whitmire, brother to Johnson Whitmire who only hired four slave children and

knew all the colored people raised by Johnson Whitmire; testified positively that Johnson Whitmire did not own a slave named Nancy Whitmire nor a slave named Martha Whitmire. J. W. Alberty who lived in the Going Snake District, Cherokee Nation before the war and who well knew Johnson Whitmire from whom he lived a distance of ten or twelve miles, testified that the Whitmire boys, George Whitmire and Johnson Whitmire, at the time they divided up their property in 1847 sold a slave named Nancy whitmire with her whole family to a man named Billingham who moved them with his family right across the line into Arkansas at a town called Dutch Town or Salem where he remained until he moved to Texas in 1860-1; that he knew the darkies "better after Billingham got them than I did before" and that Billingham only lived five miles from where witness then lived. It is evident that the principal applicant Martha Albert and her sister Jennie Barnes were living in Arkansas instead of the Choctaw Nation at the close of the war as Jennie Barnes' husband testified that he married her in November, 1866, at Fort Smith, Arkansas, where it appears Jennie Barnes was hired out and where her husband worked much of his time after marriage. Martha Albert claims to have married her husband in the Choctaw Nation during the war while her husband denies having married her until after him return to the Cherokee Nation. The death of Nancy Whitmire the mother of the principal applicant Martha Albert is shown to have occurred in 1866 but the place of her burial is not definitely shown. The belief that the principal applicant, Martha Albert was living in Arkansas and not in the Choctaw Nation as alleged by her, is further strengthened by the testimony of Mrs. Ruth Hunt

nee Ruth Harlin and Mrs. Emma Finley nee Emma Harlin, daughters of Ellis Harlin with whom it is claimed Nancy Whitmire and her two daughters, Martha and Jennie returned from the Choctaw Nation to the Cherokee Nation in November 1866. Mrs. Hunt and Mrs. Finley testify positively to the fact that their father Ellis Harlin did not return to the Cherokee Nation until February or March 1867, that no colored people returned in his company, that the first time they ever saw Martha Albert was in the "summer of 1867" when their father "went over in Arkansas somewhere towards Van Buren and hired the men to come and work", that the man's name was Albert and his wife's name was Martha, that neither the summoner his wife ever claimed to have once been the slaves of Johnson Whitmire whom witnesses knew before the war, nor did either claim to b Cherokee freedmen that they ever heard of, until the roll was taken at Vinita in 1896 and applicants are identified as former hired help. John Melton testified that Martha' Albert's husband told him "he found her at the Harlin place." If that be true and Martha Albert admits that on her return she first settled on the Cale Starr place on which Ellis Harlin lived it is evident that she did not return to the Cherokee Nation until the "summer of 1867." In view of all the facts and circumstances of this case, this office is of the opinion that the principal applicant Martha Albert and her sister Jennie Barnes now deceased, of whom the other applicants claim to be descendants, were not the slaves of Cherokee citizens at the commencement of the War of the Rebellion nor were they Freedpersons in the Cherokee Nation at the

commencement of the rebellion and even had they been, which is denied, it is shown that they went out of the Cherokee Nation and did not return thereto prior to February 11, 1867, in contravention of the treaty of July 19, 1866, which provides:

"All freedmen who have been liberated by voluntary act of "their former owners or by law, as well as all free colored "persons who were in the country at the commencement of the "rebellion and are now residents therein, or who may return "within six months, and their descendants, shall have all the "rights of native Cherokees."

As the burden of proof lies upon claimants to establish their rights to recognition as Cherokee freedmen under the provisions of the treaty of July 19, 1866, and as they have failed to bring themselves within its purview, it follows that all of the intervening applications for enrollment as Cherokee freedmen must be denied.

We come now to the discussion of another point involved. It appears of record that the names of Martha Albert and her minor children Elijah and Ida are found on the Kern-Clifton roll while the names of several of the dependents are found upon the Vallass roll. None of the applicants names are to be found upon the authenticated roll of 1880 nor upon the census roll of 1896.

Attorney for applicants contends that as the name of Martha Albert and her minor children, Elijah and Ida appear upon the Kern-Clifton roll, that such fact is conclusive of their rights as Cherokee freedmen and places the citizenship in any action by the Commission. Such contention cannot be maintained.

Congress by Act of June 28, 1898, Sec.21, directed the Commission to the Five Civilized Tribes as follows:

"It shall make a roll of Cherokee freedmen in strict "compliance with the decree of the Court of Claims rendered the "third day of February eighteen hundred and ninety six."

The Court in its decree of February 3, 1896, (see 2.4), instructed said Commission as follows:

"The said commissioners in ascertaining the identity of "the freedmen entitled to share under the decree, shall accept "what is known as the authenticated Cherokee roll, the same "now being on file in the office of the Secretary of the Interior, "having been furnished to him and purporting to have been taken "by the Cherokee Nation in 1880 for the purpose of showing the "number of freedmen then entitled to citizenship in the said "nation under the terms of the treaty between the United States "and the Cherokee Nation hereinbefore referred to, and their "descendants, and no evidence shall be accepted by said Commission "tending to disprove the citizenship of any of the persons "whose names appear upon said roll", and supplementary thereto, Sec. 21, of the Act of June 28, 1898, states expressly the proposition that the roll of Cherokee citizens of 1880 (not including freedmen) is "the only roll intended to be confirmed by this and preceding acts of Congress", thus in effect declaring that the plea of res adjudicata can not prevail unless the name of the applicant appears upon the authenticated roll of 1880.

which is not here claimed. Neither the fact of claimant's name appearing upon the Kerns-Clifton roll nor the fact of the names of her descendants appearing upon the Wallace roll, constituted any bar to further action by the Commission, as the Commission was expressly empowered by Sec.21 of the Act of June 28,1898, to "investigate the right of all other persons whose names are found "on any other rolls and omit all such as may have been placed "thereon by fraud or without authority of law, enrolling only such "as may have lawful right thereto." Thus the Commission was left free to act, as upon a new inquiry, to determine what freedmen, omitted from the roll of 1880 but "whose names are found on any other rolls" are entitled to the benefit of Article IX of the treaty of 1866. For the foregoing reasons, I concur in the opinion of the Commission that the applications for enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knolls, Sarah Prench, Fred E. Knolls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Dennis A. Barnes, Eden A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, [illegible] White, Malinda McLain, Samuel McLain, Ella McLain, Christian McLain, Charles McLain, Turner McLain, Jeannette McLain, Frank Gardner, Joshua Barnes, Maggie Bell and George L. Bell, as freedmen freedmen,

which is not here claimed. Neither the fact of claimant's name appearing upon the Kerns-Clifton roll nor the fact of the names of her descendants appearing upon the Wallace roll, constituted any bar to further action by the Commission, as the Commission was expressly empowered by Sec.21 of the Act of June 28,1898, to "investigate the right of all other persons whose names are found "on any other rolls and omit all such as may have been placed "thereon by fraud or without authority of law, enrolling only such "as may have lawful right thereto." Thus the Commission was left free to act, as upon a new inquiry, to determine what freedmen, omitted from the roll of 1880 but "whose names are found on any other rolls" are entitled to the benefit of Article IX of the treaty of 1866. For the foregoing reasons, I concur in the opinion of the Commission that the applications for enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred H. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christian McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen,

Cherokee Freedmen

D-42 et al.

Muskogee, Indian Territory, June 28, 1904.

A. S. McKee,

Attorney for Martha Albert, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha, Elijah, Ida, Albert; Robert Barnes; Lula Knalls, Sarah Frehch Fred E. Knalls; Henry, Harry, Raymond, Lewey, Albert; John, Gussied. John A., Barnes; Jerry Albert; Lillie, Mattie, Nancy, Amos, White; Malinda, Samuel, Ella, Charley, Turner, Jennetta, Christiana, McKain; Frank Gardner; Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George L., Bell; Nancy, Annie, Walter, Berlen; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-100.

Muskogee, Indian Territory, June 28, 1904.

Lula Knalls,

Foreman, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and two minor children, Sarah French and Fred E. Knalls, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

W. C. F.
FHE.

DEPARTMENT OF THE INTERIOR,

D. C. 16475-1905.

WASHINGTON. March 25, 1905.

I. T. D. 1332-1905.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department has considered a motion filed by attorneys Neal and London, of Fort Smith, Arkansas, dated December 10, 1904, to reopen the Cherokee enrollment case of Martha Albert, et al.

January 11, 1904, you decided that the applicants in said case were not entitled to enrollment, and on June 21, 1904, your decision was approved by the Department.

The attorneys desire the case reopened in order that newly discovered evidence may be introduced to show that previous to the breaking out of the war Johnson Whitmire owned two slaves by the name of Martha; that prior to the breaking out of the war one of said slaves was sold to a man named Dillingham who lived in Arkansas; that she married a man named Williams; that the other Martha, known as "Little Martha", who is one of the applicants in the case of Martha Albert, et al, married a man named Albert who lived in the Cherokee Nation. It is claimed by said attorneys that the evidence introduced by the Cherokee

Nation at the original hearing does not apply to the applicant herein.

It appears from the motion and the affidavits submitted that the case should be reopened. The motion is hereby granted. You will so notify the applicants and their attorneys and the attorney for the Cherokee Nation, and allow a reasonable time for the introduction of additional testimony, after which you will readjudicate the case.

The motion, the record and other papers in the case are inclosed.

Respectfully,

(Signed) E. A. Hitchcock

Secretary.

6 inclosures.

COPY.

Cherokee Freedmen

R-420.

Muskogee, Indian Territory, April 8, 1905.

Lula Knalls,

Foreman, Indian Territory.

Dear Madam:

In the matter of the application for the enrollment of yourself, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1332-1905), remanding this case for rehearing and readjudication.

You are, therefore, hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as you may desire in the matter of your said application. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED) T. B. Needles.
Commissioner in Charge.

Incl. S-50.
Register.

COPY.

Cherokee Freedmen

B-418, et al.

Muskogee, Indian Territory, April 6, 1906.

Neal & London,

Attorneys for Martha Albert, et al.,

Fort Smith, Arkansas.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 28, 1906 (I.T.D. 1332-1906), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 26, 1906, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED). T. B. Needles.

Commissioner in Charge.

Inc1. B-418.
Register.

COPY.

Cherokee Freedmen

R-418, et al.

Muskogee, Indian Territory, April 8, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that this Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1352-1905), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED). T. B. Needles.

Commissioner in Charge.

Incl. 2-62

Cherokee Freedman
B-420

COPY.

Muskogee, Indian Territory, July 24, 1905

Lula Knalls,

Foreman, Indian Territory.

Dear Madam:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, denying your application for the enrollment of yourself and children, Sarah French and Fred H. Knalls, as Cherokee freedmen. There has heretofore been furnished your attorneys, Neal and London, Fort Smith, Arkansas, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED): Tams Bixby.

Incl. B-25

Commissioner

Cherokee Freedman
R-420

COPY.

Muskogee, Indian Territory, July 24, 1905

Lula Knalls,

Foreman, Indian Territory.

Dear Madam:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, denying your application for the enrollment of yourself and children, Sarah French and Fred K. Knalls, as Cherokee freedmen. There has heretofore been furnished your attorneys, Neal and London, Fort Smith, Arkansas, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The Action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED) Tams Bixby.

Incl. R-25

Commissioner

COPY.

Cherokee Freedman R 418 et al

Muskogee, Indian Territory, July 24, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment as Cherokee Freedmen of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred M. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cassie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Ames White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennette McLain, Mattie McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, including the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1906, rejecting said applications.

On January 11, 1904, the Commission to the Five Civilized Tribes rendered its decision denying said applicants,

[redacted]

[redacted] SIGNED: Jesse Richardson

[redacted]

[redacted]

Cherokee Freedmen
C 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1908

Neal and London,
Attorneys for Martha Albert, et al.,
Fort Smith, Arkansas.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1908, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al. C.F.R. 418, Robert Barnes, C.F.R. 419, Lula Knolls, et al., C.F.R. 420, Nancy Berkum et al., C.F.R. 429, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White, et al., C.F.R. 424, Malinda McLain et al., C.F.R. 425, Frank Gardner, C.F.R. 426, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R., 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Pool and Lenham--2.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED: James Pixley
Commissioner

Incl, E-25

Cherokee Freedmen
R 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1905

Bell, Hastings and Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al., C.F.R. 418, Robert Barnes, C.F.R. 419, Lula Knalls et al., C.F.R. 420 , Nancy Borkum et al., C.F.R. 425, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White et al., C.F.R. 424, Malinda McLain et al., C.F.R. 426, Frank Gardner, C.F.R. 430, Joshua Barnes C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C. F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Rel, Findings & Recommend

No decision, with the report of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED: Tams Bixby.

Incl. 2-16

Commissioner

DEPARTMENT OF THE INTERIOR,

LAND
59345-1905.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

August 12, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated July 24, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Martha Albert for herself and her minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and her minor children, Sarah French and Fred H. Knalls; by Nancy Borkum for herself and her minor children, Annie and Walter Borkum; by Henry Albert for himself and his minor children, Harry, Raymond and Lewey Albert; by John Barnes for himself and minor children, Gussie A. and John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and her minor children, Mattie, Nancy and Amos White; by Charles McClain for his wife, Malinda McClain, and his minor children, Samuel, Ella, Christiana, Charles, Turner, Jennetta and Mattie McClain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself, and by George C. Bell for his wife, Maggie Bell, and his minor child George L. Bell.

July 24, 1905, the Commission decided adversely to all the applicants.

The record shows that on January 11, 1904, the Commission rendered a decision denying these applicants, except Mattie McClain inadvertently omitted, and that on June 21, 1904, the decision was affirmed by the Department; that thereafter, on March 25, 1905 (I.T.D. 2338-1905) the Department reopened and remanded the case for further testimony and readjudication.

The record further shows that the applicant, Martha Albert and Jennie Barnes, deceased, were full sisters, and were born prior to the beginning of the war of the rebellion; that all the other applicants were born since the beginning of the war, are lineal descendants of the applicant, Martha Albert and Jennie Barnes, deceased, and possess no rights to enrollment other than as such descendants.

It is further shown that the applicant, Martha Albert and Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the beginning of the war of the rebellion, and that they did not return to the Cherokee Nation on or before February 11, 1867.

Excepting the Wallace and Kern-Clifton, none of the applicants is identified on any roll of the Cherokee Nation.

In view of the record the approval of the Commission's decision adverse to all of the applicants is recommended.

Very respectfully,
C. F. Larrabee,
Acting Commissioner.

M.M.M.
W.

-COPY- S.R.

DEPARTMENT OF THE INTERIOR, RLB

WASHINGTON.

D.C. 22958.
I.T.D. 4733-1904.
1332-1905.
8788- "
10266- "
L.R.S.

June 2, 1906.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

July 24, 1905, you transmitted the remanded record with your readjudication in the matter of the consolidated applications for the enrollment of Martha Albert et al. as Cherokee freedmen, including your decision of same date, adverse to all the applicants.

August 12, 1905, the Acting Commissioner of Indian Affairs reporting thereon, recommended that your decision dated July 24, 1905, adverse to all the applicants named in his said letter, be approved. A copy of his letter, including the names of applicants affected by this decision, is inclosed.

The Department concurs in the recommendation made and your decision dated July 24, 1905, denying the application for the enrollment of Martha Albert and others named in Indian Office letter of August 12, 1905, is hereby affirmed.

A motion for review of said decision filed with the

[redacted]

[redacted]

Respectfully,

[redacted]

Assistant Secretary.

[redacted]

Cherokee Freed-
man R 420

COPY

Muskogee, Indian Territory, June 15, 1906.

Lula Knalls,

Foreman, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting, among others, your application for the enrollment of yourself and children as Cherokee freedmen, was affirmed by the Secretary of the Interior June 8, 1906, and that a motion for review of your case filed September 7, 1905, is denied.

Respectfully,

Tams Bixby.

Commissioner.

MMP

Cherokee Freed-
men R 416

COPY.

Muskogee, Indian Territory, June 15, 1906.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Tams Bixby.

Commissioner.

Incl.P-16
MAP

Cherokee Freedmen
R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Blue & Bulger,

Attorneys for Martha Albert,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that the motion filed by you September 7, 1905 for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED.

Tams Bixby.

Commissioner.

Incl.P-17
MMP

Cherokee Freedmen
R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Neal & London,
Attorneys for Martha Albert,
Ft. Smith, Arkansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 9, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Tams Bixby.
Commissioner.

Incl.P-18
MMP

F D100

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
APR 18 1901

ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date APR 18 1901

Post Office Foreman I. T.

District Bey.

1. Name _____ Age _____

Owner's name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father _____ Citizenship _____

Mother _____ Citizenship _____

W Name of wife Lula Knalls Age 39

Owners name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father Jerry Whitmire Citizenship Col D

Mother Jennie Barnes Citizenship Col D

Names of Children:

~~Thomas Knalls~~ Year _____ Page _____ No. _____ Dist. _____

D Sarah Francis Year _____ Page _____ No. _____ Dist. _____ 8

D Fred E. Knalls Year _____ Page _____ No. _____ Dist. _____ 2 m.

6. _____ Year _____ Page _____ No. _____ Dist. _____

7. Double Year _____ Page _____ No. _____ Dist. _____

8. _____ Year _____ Page _____ No. _____ Dist. _____

9. Full Year _____ Page _____ No. _____ Dist. _____

10. _____ Year _____ Page _____ No. _____ Dist. _____

11. _____ Year _____ Page _____ No. _____ Dist. _____

12. _____ Year _____ Page _____ No. _____ Dist. _____

Application made by Mott Stenographer ~~Geo. M. D.~~ Tom Nave

(1) No Enrollment

(2) Affidavit of Mother to be filed.

(3) " " " " " "

Double Full

0 F2100

19

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Lyla Knalls,
Foreman, I.T.
Cherokee F-D-100.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Cher. Fr. R-421

See Cher. Fr. R-418-19-20, R-422 To R 431
both inc.

Cher Fr R-421

F. S. 112

[illegible] of the [illegible]
[illegible] TO THE FIVE CIVILIZED

FILED
APR 24 1901

[illegible] ACTING CH[illegible]

[illegible]

[illegible]

To be filed with case of Henry Albert, Cherokee Freedman D 102:

Department of the Interior,
Commission to the Five Civilzed Tribes,
Ft. Gibson, I T., April 10,1901.

In the matter of the application of Martha Albert for the enrollment of herself and two children as Cherokee Freedmen; being sworn and examined by Commissioner Needles, she testified as follows:

Q What is your name? A Martha Albert.
Q How old are you? A About 54 or 5 years old.
Q What is your post-office address? A Melvin.
Q What district do you live in? A I live in Tahlequah District now; but I have been living in Sequoyah.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Did you ever apply to be enrolled as a Freedman of any other tribe or nation? A No sir.
Q Have you been recognized by the Cherokee authorities as a Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A I have got two children.
Q What are the names of your children? A Elijah Albert, 19 years old. Ida Albert, 10 years old.
Q Are you married? A Yes sir.
Q What is your husband's name? A Holly Albert.
Q Is he a citizen? A Well, he has been raised by them.
Q Is he living? A Yes sir.
Q Where is he? A He is down town.
Q Were you a slave? A Yes sir.
Q What was your owner's name? A Johnson Whitmire.
Q Where were you at the beginning of the war between the Confederacy and the United States? A Goingsnake.
Q Were you taken out of the nation during the war? A Far as Red River.
Q This side or the other side of Red River? A This side.
Q When did you come back? A In '66.
Q You have been living down here ever since '66? A Yes sir.
Q What was your name before you were married? A I went by my owner's name, Martha Whitmire; I always goes by the name of Mat now.
Q Your name though is Martha? A Yes sir.
Q Have you ever lived in Cooweescoowee District? A No sir.
Q What is the reason your name aint on the roll of 1880? A I don't know; you know how ignorant people was, didn't know how to go at such business.
Q You say you were a slave of Johnson Whitmire? A Yes sir.
Q And that you came back to the Cherokee Nation in '66? A Yes sir.
Q You sure it was '66? A Yes sir.
Q You think it wasn't '76? A No sir, '66.
Q You wasn't here in '65? A No sir.

Examined by Cherokee Representative, James Davenport:

Q Who did you come back to the Cherokee Nation with when you came back? A With Ellis Harlin.
Q Where did you go first when you came back? A I stopped right down on the Cale Starr place where the Cherokee Junction is now.
Q Stopped on the Arkansas side didn't you? A No sir, I didn't.
Q How long did you live in Ft. Smith? A Never lived in Ft. Smith any.
Q How long did you stay there? A I staid there 2 years, and then went to Lee's Creek.
Q Who did you live with there? A Cherokee family there, named Allison, and Mrs. Franklin and all of them.

Q Where was Hickory Starr living at that time? A In Flint.
Q You didn't go up to Flint? A No sir.
Q Well, did you go to Goingsnake District? A No sir.
Q You just went to Sequoyah District and remained there? A Yes sir.

Examined by Commissioner Needles:

Q Have you got anybody here that knows you and knows you were here in '66? A Yes sir, Mandy Benton and John Melton.

JOHN MELTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A John Melton.
Q How old are you? A 64.
Q What is your post-office address? A Benge.
Q Are you a Cherokee Freedman? A Yes sir.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q You know Mattie Albert? A Yes sir.
Q Was she a slave during the war or before the war? A I don't know.
Q When did you first know her? A About '67, early in '67; I saw her husband in '66 sometime, and had a talk with him; he said he found her at the Harlin place; I often heard talk of them being down there, but I never see them for a few months after.
Q When did you firstsee her? A Early in '67.
Q Early as January? A No sir.
Q Sometime in the spring? A Yes sir, along in the spring.

Examined by Cherokee Representative, James Davenport:

Q You don't remember what time in '67 you saw her? A No sir, not exactly.
Q You don't know where they were during the war? A No sir.

MANDY BENTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Mandy Benton.
Q How old are you? Mandy? A About 70.
Q What is your post-office? A Benge.
Q You are a Cherokee Freedman are you? A Yes sir.
Q You know Mattie Albert? A I have been knowing her ever since the surrender.
Q You know where she was at the close of the war between the Confederacy and the United States? A I don't think I do.
Q Where did you first get acquainted with her? A On the Harlin place.
Q What year was that? A '66.
Q Was she there in '66? A Yes sir.
Q You know whether she had been a slave or not? A Yes sir, she was a slave.
Q You know who her owner was? A Whitmire.

Examined by Cherokee Representative, James Davenport:

Q What makes you remember that it was in '66 when you first got acquainted with her? A Well, just by paying attention to others talking I reckon , and knowing it was that time.
Q How long after the surrender was it you got acquainted with her?
A Well, really I don't know.

Q Was it two years or three years? A It might have been a year and maybe not so long; I don't remember.
Q Where was she living when you got acquainted with her? A At the Harlin place.
Q Where is the Harlin place, I don't know Mandy? A It is in Sequoyah.
Q With whom was she living at that time? A With her husband and her children.
Q How many children had she? A I don't know how many children she had.
Q How far were you living from where she was living at that time?
Q I guess it's about very near two miles.
Q You remember any of the Cherokee families living in that locality where she was living? A No.
Q You don't remember anything about it except it was in '66 you got acquainted with her? A Emma Harlin was living there then I think, if I mistake not.
Q Was Cale Starr living there? A I don't know- I remember--
Q You know Cale Starr? A Yes sir. I would like to get it straight; I tell you I have had so much trouble since that time I don't remember.
Q You don't know whether it was '66 or '76? A It was '66.

Examined by Cherokee Representative, W.W.Hastings:

Q It was before the treaty was it aunty that you got acquainted with her? A I guess it was.
Q Now, aunty, you don't know anything about years do you? A I forget them.
Q You didn't know anything about years then did you? A Oh I guess I was here; I know a little something about it.
Q What year is this? A Now I disremember.

Examined by Commissioner Needles:

Q You are pretty positive though that you saw this woman in '66? A I sure is.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not identified thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
page 2934 Mattie Albert Sequoyah District;
page 159 #3936 Elijah Albert, Sequoyah District;
page 159 #3937 Ida Albert, Sequoyah District.

Q Have these children always lived in the Cherokee Nation?
A Born and raised here.

Com'r Needles: The name of Mattie Albert and her children, Elijah and Ida are found upon the Kerns-Clifton roll; their names do not appear upon the authenticated roll of 1880 nor the census roll of 1896; they are duly identified; now comes the Cherokee Nation, and protests against their enrollment, consequently, if evil judgment will be suspended as to the enrollment of said Mattie and her children and their names will be placed upon a doubtful card.

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Martha Albert et Als

M.B.Green, being first duly sworn states that she is stenographer to the Commission in the above entitled cause that she correctly recorded the testimony and proceedings in this case And that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this April 24, 1901.

Commissioner.

To be filed in case D 102, Henry Albert.

Department of the Interior.
Commission to the Five Civilized Tribes.
Ft. Gibson, I. T., April 18, 1901.

In the matter of the application of Martha Albert for enrollment as a Cherokee Freedman; she being sworn and examined by Commissioner Breckinridge, testified as follows:
Supplemental testimony.

Q Give me your full name. A Martha Albert.
Q How old are you? A I don't exactly know; I hold myself four about 57 years old.
Q What is your postoffice? A Melvin.
Q In what district do you live? A I live in Tahlequah District.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they all under 21 years of age? A No sir, they are all married but two.
Q Then you want to enroll those two? A Yes sir.
Q Have you a husband? A Yes sir.
Q Do you want to apply for his enrollment also? A No sir.
Q How long have you lived in the Cherokee Nation? A Been living here - I was born and raised here.
Q Lived here all your life? A Yes sir.
Q Have you applied before? A Yes sir, I didn't put my children on; I wasn't satisfieid the way I went in for.
Q So you want to apply again? A Yes sir.
Q Why didn't you apply for your children when you applied before for yourself? A The witnesses couldn't stay.
Q You didn't have your evidence in good shape? A No sir.
Q I have here your enrollment card and it appears that you did apply for two children, one Elijah and one, Ida? A Yes sir.
Q Are those the names of your children? A Yes sir.
Q What you want to give now is some additional testimony? A Yes sir.
Q What witnesses do you want to introduce now? A Henry Brown and Andrew Crossland.

Henry Brown, being sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give me your full name. A Henry Brown.
Q How old are you? A I am supposed to be about 44 years old.
Q What is your postoffice? A Vian.
Q In what district do you live? A Illinois.
Q How long have you lived in the Cherokee Nation? A I lived here all my life, only the time of the war.
Q You were out during the war, were you? A Yes sir.
Q Where did you go? A Chickasaw Nation.
Q You lived in the Cherokee Nation before the war? A Yes sir.
Q Well you were quite a child during the war? A I was about 12 or 13 years old during the time of the war; maybe 16; I don't know my age exactly.
Q What time did you come back to the Cherokee Nation, the time during the war? A They said it was in the fall of '65.
Q You came from the Chickasaw Nation? A Choctaw rather.
Q Then you never were out of the Indian Territory during the war? A No sir.
Q Do you know an applicant here, Martha Albert? A She used to go by the name of Whitmire.
Q Is she known as Albert now? A Yes sir, by her husband now.
Q Did she belong to a man named Whitmire before the war? A That's what they claim they belonged to Whitmire.
Q Were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Brown.
Q What was Whitmire's full name, do you remember? A I don't know his full name.
Q Johnson Whitmire? A I heard that name, yes sir; I heard him

called by that name.
Q Well, now, in those days did you live near Whitmire's place? A No sir, I lived at that time in Canadian District.
Q How far from Whitmirdsplace? A That's - I don't know how many miles. They claimed before the war something like forty miles; I don't know.
Q You came back to the Cherokee Nation when? A In the fall of '65.
Q When did you first see Martha Albert, as she is called now, after you came back? A It was in '66 as near as I can remember; I saw her at old Jack Campbell's church house.
Q You can't becertain what year it was? A No sir, but I think it was in '66.
Q Have you known her pretty well ever since that time? A I have been seeing her off and on; I lived in Illinois and they used to live in Sequoyah.
Q Has she been living in the Cherokee Nation ever since you saw her then? A That is where I have been seeing her.
Q About how often would you see her, once a year or once every five or ten years? A I couldn't say how often; it wasn't often.
Q But you have seen her some since? A Yes sir, some since I came back after the war.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q Did you ever see this woman before the war? A No sir, never seen her before the war.
Q You never knew her then? A No sir.
Q The first time you ever saw her was after the war? A Yes sir.
Q And you never heard her personal name? A No sir.
Q You don't know that this woman was among them, the Whitmires? A No sir, I don't know.
Q I mean among them after the war when you saw her? A I only know that they were Whitmire's darkies.
Q Did you know her personally? A No sir.
Q Did you know her after the war? A Yes sir, I saw her at this church.
Q The first time you saw the Whitmire darkies, you don't remember this woman personally except seeing here in the crowd? A I saw her with the Whitmire darkies.
Q Were they at the Church house there at that time? A Yes sir.
Q Colored Church? A Yes sir.
Q Do you remember that this woman herself, individually, was among them? A No, only that they said they were Whitmires.
Q You don't remember this woman personally except the Whitmires generally that were there? A They said they was the Whitmire darkies.
Q Did you see this particular individual colored woman at that time in '66? A As near as I said it was '66, that was the day I saw her at the church as a Whitmire.
Q Did you see this particular woman? A Yes sir.
Q Do you think you saw her in '66? A As near as I can come at it.
Q You are not positive? A I am satisfied that it was '66.
Q What makes you fix that date? A Because I think it must have been near that time. It was the time I moved on Canadian. I was living there.
Q You were living in Canadian then? A Yes sir.
Q What were you doing down there? A I was in the Court at Fort Smith.
Q Who was preaching there? A I didn't go there; I just happened to be around there and Harry Foreman.
Q You don't know who preached? A No sir.
Q You didn't know this woman before? A No sir.
Q Why was it that this woman among a whole crowd of darkies was pointed out to you and why do you remember? A Because I heard it was the Whitmire darkies.
Q There was a number of them? A She was a particular one, he said was a Whitmire darkey.

Q What makes you remember that? A Because he said so.
Q Was she married then? A I don't know whether she was or not.
Q You don't remember of seeing her husband then? A No sir, I don't.
Q Where was that church? A Jack Town, this side of the river.
Q How far from the Payne place? A Six or seven miles this way from the river.
Q By Cherokee Junction? A Yes sir.
Q You don't know who she come back with? A No sir.
Q You don't know how long she's been back? A No sir.
Q What time of the year was it you saw her? A As near as I can say it was '66.
Q Spring, summer or fall? A Along in August of '66.

Commissioner—
Q You were a stranger down there in that neighborhood? A No, not exactly I knowed some of the people down there.
Q How far did you live from there? A 45 or 6 miles.
Q Had you ever lived in that neighborhood? A I used to stay there a while after the war by Dr. Campbell place.
Q Did you visit or live there? A When I come there, I came from Fort Smith and stopped at Campbells.
Q How long did you stay there? A Several mnths.
Q Were you acquainted with many of the Whitmire darkies as you call them? A No more than just heard them as Whitmires when I was at the church.
Q And there were a lot of them there and they said they were Whitmire people? A Yes sir.
Q There seemed to be a lot of them? A This woman said she was a Whitemire and Charley Whitmire; they called them the Whitmire Darkies.
Q How long after that was it before you seen this woman again? A I couldn't say how long it was afterwards; it was some times afterwards.
Q Some years? A No years.
Q When were you down there again? A Several time after that.
Q You have been down there several times since that time you were at the church and the present day? A Yes sir, several times.
Q Well, about how long after being at the church before you went there again? A It must have been; I couldn't say, I stopped by Jacktown and would be on this side of the river. I can't say.
Q Were there a number of these Whitmire colored people down there? A They were acknowledged to be Whitmire pagans. They claim to be several of them; the ones I speak of is the one I saw that Sunday.
Q Were there quite a number of them? A They claim there was a good number of them.
Q You saw a good many who were claimed to be Whitmire people? A Yes sir, Whitmire darkies.
Q What impressed this woman on your mind? A Harry Foreman pointed her out to me as a Whitmire.
Q You weren't acquainted with her? A No sir, only saw her that Sunday.
Q He pointed her out and others as belonging to the Whitmire crowd? A Yes sr.
Q Do you think that made enough impression on your mind passingthere to remember her during all this time, you living forty miles away? A I saw her since then; that wasn't the only time I saw her.
Q You can't say for certain what year it was you weredown there? A No sir, as near as I can remember, I claim it must have been '66.
Q And this is as far as you can go? A Yes sir, in being honest.

Examination by W. W. Hastings, representative of the Cherokee Nation—
Q I believe you stated that you attended Court at Fort Smith? A Yes sir.
Q What trial? A Brother Green.

Q Was he tried at Fort Smith that year? A Yes sir.

Commissioner—
Q That is the year you claim you saw the woman at this church?
A Yes sir.
Q Remember we are talking about the year you saw the Whitemire people? A I think it was in '66.
Q I am not asking you about that, we are trying to locate what business you had in the Court at Fort Smith in the year that you were at the Church + what business took you to Fort Smith that particular year? A I couldn't say what year.
Q I never asked you about the year, I asked you about the business?
A As a witness.
Q In what case? A Green Lowry.

Examination by W. W. Hastings—
Q What Judge tried that case? A Judge Parker.
Q At Fort Smith? A Yes sir.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. V. Rothenberger

Subscribed and sworn to before me this 10th day of April, 1901.

Whitemire

Commissioner.

F.F. 102

Report Dispatched at 11 and 4

FILED
APR 23 1900

To be filed in case of Henry Albert, Freedman, D 102.

SUPPLEMENTAL:

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Martha Albert nee Shell et al for enrollment as Cherokee Freedmen;
Albert Johnson, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Albert Johnson.
Q How old are you? A I am 43
Q What is your post-office? A Benge.
Q In what district do you live? A Sequoyah.
Q You want to give some testimony in the case of Martha Albert and her children A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life, with the exception of going out into the Choctaw Nation during the war.
Q At what time did you come back to the Cherokee Nation? A '65.
Q And have you lived here ever since? A Yes sir; I have been right in the Territory ever since.
Q Do you know Martha Albert? A Well, yes sir, I do to some extent.
Q How far does she live from you? A She lived right by us.
Q At one time?A Yes sir.
Q When was that? A Oh that has been I reckon about 24 or 5 years ago since she lived right by us, I guess; I wont say that for certain.
Q What was her name in that day? A Well she went by Mattie Albert
Q Do you know what her name was before it was Albert? A No sir, I couldn't say just what her name was, because I didn't know.
Q Where did she live before that time 24 or 5 years ago, when you and she lived close together? A I am going to tell you just like I know; I aint going to tell nothing more than that; they said she lived up on Lee's Creek; I don't know that.
Q You have no knowledge, [redacted] of your own? A No sir, not as to where abouts she was living at all.
Q So of your own knowledge, except for hearsay, you don't know anything more than 24 or 5 years ago, is that so? A Yes sir.
Q Your first personal acquaintance with her was 24 or 25 years ago, as near as you can place it now? A Yes sir.
Q How old were you when you first knew her? A I guess I must have been about 17 or 18 years old; I guess I was, I don't know exactly.
Q You were most a young man? A Yes sir.

Examined by Cherokee Representative, W.W.Hastings:

Q How far, Albert, did you live from Lee's Creek? A I lived 10 miles from Lee's Creek.
Q Yet you never saw her before that time? A No sir.

ANDY GROSSLAND, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Andy Grossland.
Q How old are you? A About 34.
Q What is your post-office? A McLee.
Q In what district do you live? A Illinois District.
Q You want to give testimony in the case of Martha Albert and children? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been here all the time, born here.
Q Were you in the Cherokee Nation during the Civil War? A Yes sir.

Q All the time during the war? A Yes sir, I was a soldier.
Q When did you begin soldiering? A I couldn't tell you; I was a soldier.
Q What command were you in? A Cherokee.
Q In the Union Army? A Home Guard.
Q Were you Home Guard on the Union side or the Confederate side?
A Confederate side.
Q Well, then, you quit soldiering of course when the war closed?
A Yes sir.
Q Did you surrender? A Yes sir.
Q Where did you surrender? A Right here at Ft. Gibson.
Q When did you first know Martha Albert? A After the war.
Q Where did you live before the war? A Down in Sequoyah District.
Q Were you a slave in these days? A Yes sir.
Q To whom did you belong, did you belong to a man named Crossland?
A Yes, his wife.
Q What was her husband's name? A John.
Q You were paroled right here at Ft. Gibson? A Yes sir.
Q Where did John Crossland and his wife live? A In Sequoyah District.
Q Near what town? A Close to Redland.
Q Who did Martha Albert belong to in old times; she was a slave in old times was she? A I couldn't tell you.
Q You don't know then, of course, where she lived back before the war? A He used to live there in Flint.
Q Who are you talking about? A Martha
Q You said he, you mean Martha Albert? A Yes sir.
Q You say she must have lived in Flint, but you don't know
A No.
Q When did you first see her? A Close to Ft. Smith on Cale Starr's place; had a place close to Stonewall, and I was going down towards Van Buren and I staid all night with her.
Q How did you happen to see her? A I staid all night with her.
Q Staid all night there? A Yes sir.
Q She was living on the plantation? A Yes sir, on Cale Starr's place.
Q She was a married woman then? A Yes sir.
Q You stopped at their house? A Yes sir.
Q What were you going down to Van Buren for? A Taking some cattle.
Q You had gone to work? A Yes sir.
Q How long hadyou been living up there before you started that trip? A I had been living all the time.
Q But after you were paroled and the war was over, you went to work? A Yes, well I stopped down at Sand Town after peace was made.
Q You were in the Home Guard? A Yes sir.
Q And after the war was over you were paroled? A Yes sir.
Q And then you went to work? A Yes sir.
Q Who did you go to work for? A Just sometimes hired in a job of cattle to Van Buren.
Q How long had you been working after the war before you went down to Van Buren after the war with that lot of cattle? A Three or four years.
Q Three or four years then, after the war was over, and you had been paroled, you went down to Van Buren with a lot of cattle? A Yes sir.
Q And on that trip you stopped at this woman's house and staid all night with her family? A Yes sir.
Q And at that time you got acquainted with her? A Yes sir.
Q That's the first time you ever saw her? A Yes sir.
Q And you have no knowledge of her before that time? A Yes sir.
Q Well you never knew her before that time? A No sir.

Q Have you been knowing her off and on ever since? A Ever since.
Q So you don't know where she was before you met her at that time? A No sir.

ROSE ROGERS, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Rose Rogers.
Q How old are you? A I pronounce my age 56 years of age.
Q What is your post-office? A Locust Grove.
Q In what district do you live? A Saline.
Q You want to give some testimony in the case of Martha Albert and her children? A Just of her owners and where she lived.
Q How long have you lived in the Cherokee Nation? A I have been bred and born in Goingsnake District, I have been nowhere else.
Q Lived here all your life? A Yes sir, until I went south with my owners time of the war.
Q Where did you go? A Down in the Choctaw Nation.
Q You remember the first year when you went to the Choctaw Nation? A Yes sir, just when the war broke out we went to the Choctaw Nation.
Q And you came back when the war was over? A Yes sir.
Q Who did you belong to in those days? A Cornelius Wright.
Q Who was it Martha Albert belonged to? A She belonged to Johnson Whitmire; her mother did.
Q Did she belong to Johnson Whitmire herself? A Yes sir, she belonged to Johnson Whitmire; her mother and her mother's children; I was about 11 years old.
Q How far did Johnson Whitmire live from Cornelius Wright? A Five miles, on the mouth of Barron Fork, close to Pea Vine Creek.
Q You know where Martha Albert was during the war? A No sir, I don't.
Q What do you know about her after the war? A I haven't seen her since the war until I met her here on Fourteen Mile Creek.
Q When was that? A Just last year; I saw her since she was a little girl.
Q So you haven't seen her since you went down to the Choctaw Nation during the war until you met her out here on the Creek last year? A Yes sir.
Q And that's all you know about her? A Yes sir. I knew where she was born bred and born on Barron Fork; she lived with Johnson Whitmire; there was two brothers then, George Whitmire and Johnson Whitmire.
Q Did you see her during the war? A No sir.
Q You don't know where she was taken? A No sir, but her people went south; they was in behind; so we went ahead of them; they located somewhere in the Choctaw Nation; but I couldn't say where
Q You don't know about that? A No sir.
Q Did you know her in that day, before the war? A Yes sir, we were children together; just lived five miles apart; I just wanted to identify her mother, who they belonged to; and they were not sold out; I am qualified; I want to state what I know.
Q You know she was born in the Cherokee Nation and went out during the war? A Yes sir.
Q And beyond that you don't know anything except when you met her about a year ago? A Yes sir. We was raised together; gathered hazel nuts together.

Martha Albert et al. vs. [illegible]

M. D. Green, being first duly sworn, states that he is stenographer to the Commission to the Five Civilized Tribes; that correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green

Subscribed and sworn to before me this April 19, 1901.

C. R. Breckinridge

Commissioner.

To be filed in case of Henry Albert, Cherokee Freedman D 102.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Robert Barnes for the enrollment of himselfas a Cherokee Freedman; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Q Give me your full name? A Robert Barnes.
Q How old are you? A 33
Q What is your post-office? A Foreman.
Q In what district do you live? A Sequoyah.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A My youngest sister; all the children is grown but my sister; my mother is dead; I am applying for my brothers and sisters.
Q Why don't they apply for themselves? A Well I am putting in the case for us.
Q Are your brothers and sisters all of age? A Yes sir, all but one.
Q Since they are of age why don't they apply for themselves?
A Well, they will do that.
Com'r: The law requires that unless there is some very strong reason to the contrary.
Q You have one sister under age? A Yes sir.
Q Does she live with you? A Lives with my father.
Q Where is your father? A He is at home.
Q He should apply for his child? A He don't claim any right himself.
Q Yes, but he is the father, and he should apply for his child.
Q You apply then for yourself: how long have you lived in the Cherokee Nation? A Always.
Q All your life? A Yes sir.
Q Give me the name of your father? A Sam Barnes.
Q He is alive? A Yes sir.
Q Give me the name of your mother? A Jennie Barnes.
Q Is she alive? A No sir, she is dead.
Q How long has she been dead? A About ten years.
Q You say your father is not a Cherokee Freedman? A No sir.
Q Was your mother a Cherokee Freedman? A Yes sir.
Q You have never lived anywhere except in the Cherokee Nation?
A No sir.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

1896 census roll of citizens of the Cherokee Nation examined and name of applicant not identified thereon.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and name of applicant not identified thereon.

Q You don't appear to be upon any roll of the Cherokee Nation?
A I am on the Walkoe roll.
Q Could you have been enrolledunder any other name? A No sir.
Q Has your mother lived with your father ever since they were married? A Yes sir.
Q Willie, Charley and Turner Barnes, are they your folks? A No sir
Q How old was your mother when she died? A I think she was about 42 or 3.
Q Where was your mother born? A In Delaware.
Q Was she a slave before the war? A Yes sir, said she was.
Q To whom did she belong? A Johnson Whitmire.
Q Where was she during the war? A I don't know sir.
Q Where were you born? A I was born in Sequoyah District.
Q Do you know where your mother was in '66 or '67? A She said she was living down there near Cherokee station.

Q She was married to your father at that time? A Yes sir.

Com'r: Well, you see, so far we are without any evidence except hearsay evidence, that you have about your mother being either a slave before the war, having been set free in the Nation in any way, and about where she was during the war, and when she got back; you see you were not born until '67 or '68, according to your age, and you are not on any roll, and you had better have your father come in and apply for this child, and give testimony also in your case; he may be able to throw some light on it .

Q Is there no witness you want to bring in? A Yes sir, Mat Albert

MARTHA ALBERT? being sworn and examined by Commissioner Breckinridge , testified as follows:

Q Give your name there, please? A Martha Albert.
Q How old are you? A I am about 57 or 8 years old.
Q What is your post office? A Melvin.
Q In what district do you live? A Live in Tahlequah District.
Q You want to give some evidence here in the application of Robert Barnes don't you for enrollment A Yes sir.
Q You have made an application for yourself and two children?
A Yes sir.
(Com'r: This is D 42.)
Q A trouble in your own application appeared to be to establish when you came back to the Cherokee Nation after the war?
A I came backhere two months before the '66 treaty went off.
Q You know Robert Barnes do you? A Yes sir.
Q How long have you known him? A I have knowed him ever since he has been born; he was my sister's child.
Q Child of your sister, Jennie? A Yes sir.
Q She belonged to Johnson Whitmire? A Yes sir.
Q Were you and she taken out of the Cherokee Nation during the war?
A We went to Red River in the Choctaw Nation.
Q You didn't go across the river? A No sir, we never crossed into Texas.
Was your sister there with you? A Yes sir.
Q And both of you belonged at that time to Johnson Whitmire, did you? A Yes sir.
Q Well, did she come back with you? A Yes sir.
Q Johnson Whitmire brought you both back? A No sir, my father bought us back.
Q You and your sister came back together? A Yes sir.
Q What was the father doing down there? A Well we went south.
Q Was he working down there? A Yes sir.
Q On a plantation? A Yes sir, he was a free man; he always just dug wells around for people.
Q Your father was a free man? A Yes sir.
Q But your mother was a slave? A Yes sir.
Q Did she come back with you and your sister? A Yes sir.
Q What business did you say your father did? A He dug wells and worked around for people.
Q And he brought your mother and both of you back? A Yes sir.
Q In what year did he bring you and your sister? A 1866 when I come back here.
Q What time of the year was it? A It was in the fall of the year.
Q Where did your sister locate when she came back? A She located down here close to Cherokee Junction.
Q Were you in the same neighborhood with her? A Yes sir, right in the same yard.
Q Were you on a plantation or about the town? A I was on Cale Starr's place.
Q On a farm? A Yes sir.

Q He is not living now, Cale Starr, is he? A I don't know.
Q Any of his children living? A I don't know.
Q Is his wife living? A I don't know that neither; I have been living in Sequoyah.
Q Are there any of the people who were living there on that place at that time living now? A No sir, not on that place; there wasn't no one there but us working the farm, rented the place.
Q You and your sister were on that place? A Yes sir.
Q But there were no colored people on it but just you and your people? A Yes sir.
Q Well now how many people were in your family at that time, you and your sister and who else? A Me and my sister and our husbands.
Q Was her husband then living, Sam Barnes? A Yes sir.
Q And your husband, is he living? A Yes sir.
Q Has your husband testified in your case? A No sir.
Q Why didn't you bring your husband? A He is in here somewheres.
Q Your sister's husband is not here is he? A No sir.
Q Did your husband go around the country digging wells after he got back? A My father.
Q Was he with you when you got back? A Yes sir, brought us back.
Q Did he go around the couhtry digging wells? A No sir, he didn't dig any wells after he got back.
Q What did he do? A He farmed.
Q Was he living with you there on Mr. Starr's place? A Yes sir.
Q Your father is dead now? A Yes sir.
Q Who had farms there in that neighborhood? A Old Uncle Jack Campbell.
Q Is he alive? A No sir, he is dead.
Q Anybody else? A Yes sir, Dave Choate had a place right there joining.
Q Named Chouteau? A Named Choate, Cherokee.
Q Is he living? AI don't know.
Q Do you know anybody who is living now that was living in that neighborhood there and knew you all? A Yes sir.
Q Well give their names?A Eliza Franklin, it aint Franklin now; that was her name when I knew her; her name is Eliza McCrady now.
Q Is she about the room now? A No sir, she is living down in Sequoyah; she is a Cherokee.

Examined by Cherokee Representative, W.W.Hastings:

Q Where were you married? A We married in slavery time; we married in the Choctaw Nation.
Q Your husband came back with you also? A Yes sir.
Q I thought you said your father brought ypu back? A Well, my father was the leadding one brought us back.
Q Where was your sister married? A She was married here under the Cherokee law.
Q She wasn't married down there? A Nosir.
Q Her husband didn't come back with her? A No sir.
Q Where was Robert Barnes born? A Down in Sequoyah.
Q On what place? A Right there on the Cale Starr place.
Q That's how far from Ft. Smith? A About four miles.
Q And by the river, on this side? A Yes sir.
Q You say Cale Starr was living there at the time? A No sir, old man Ellis Harlin was living there; ~~he husband~~
Q He had a family? A Yes sir.
Q One of them named Emma? A Yes sir.
Q She was living there? A Yes sir.
Q Another one named Ruth? A That's right.
Q She was living there at that time? A Yes sir.
Q And a boy named Oce.
Q And Oce was living there at that time? A Yes sir.
Q He knew your people now? A Yes sir.

Examined by Commissioner Breckinridge:

Q How many children have you? A I have got six.
Q Where was your oldest child born? A Born in Sequoyah.
Q After you got back after the war? A Yes sir.
Q How old is that child? A About 37 years old.
Q How long had you been married down in the Choctaw Nation when you got back? A We married time of the war.
Q Along toward the last of the war? A Yes sir.
Q How long had you been married when your oldest child was born? A I couldn't go to work to tell you about that.
Q Been several years had it? A Yes sir.
Q How long had you been back here when your oldest child was born? A She was born in '67.
Q How long had you been back here when she was born? A Well I say she was born in '67.
Q Who attended on you at the time of the birth of that child? A The woman who attended on me is dead; Mandy Benton's mother.
Q Some of the old people living who remember when that child was born? A No sir, none that I know of; there was no colored folks in there hardly then.
Q You don't remember how long you had been back in the Cherokee Nation when that child was born? A Yes sir.
Q How long? A She was born in '67.
Q I didn't ask you what year she was born in, I asked you how long you had been in the Cherokee nation when that child was born? A Well I tell you she was born the year after I come back here.
Q The next year after you got back? A Yes sir.
Q Was the child born in the spring, summer or fall? A Born in January.
Q And what time of the year was it you got here? A I got here in the fall of 1866.
Q In the fall before the January this child was born? A Yes sir.
Q

COLLY ALBERT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Colly Albert is the way I always sign my name.
Q How old are you? A I am 61.
Q What is your post-office? A Melvin.
Q In what district do you live? A I live in Illinois District.
Q You want to give some testimony in the case of Robert Barnes do you, who has applied for enrollment? A Well I can give some.
Q Well you are not here to apply for your own enrollment are you? A No sir, not now; not at present.
Q Are you the husband of Martha Albert? A Yes sir.

(Com'r: Her case is D 42.)

Q Do you know Robert Barnes? A Yes sir.
Q How long have you known him? A I have been knowing him ever since he was born.
Q How long have you lived in the Cherokee Nation? A I have been raised and born here in the Cherokee Nation.
Q Were you a slave in old times? A Yes sir.
Q To whom did you belong? A Old lady Bushyhead, Nancy.
Q Where were you during the war? A I was down on Red River.
Q In the Choctaw Nation? A Yes sir.
Q Where did you live before that, on Nancy Bushyhead's place? A Yes sir.
Q In what district was that? A In Goingsnake district.
Q You married your wife, Martha, down there did you, on Red River? A No sir, I married her after I come back; I lived with her but I didn't marry her until after we come back to the Cherokee Nation.
Q How long after you came back to the Cherokee Nation was it before you and she married? A About three years I guess; I joined the church and they wouldn't let me live in the church until I married.
Q Did you and she have any children until after you were married? A Yes sir, she had two.

Q Two before you were married? A Yes sir.
Q That is ,before you were married the way the church made you marry? A Yes sir.
Q You knew your wife's sister, Jennie? A Yes sir.
Q She was married to Sam Barnes was she? A Yes sir.
Q Did you come back with your wife after the war when she came from the Choctaw Nation? A I come a little ahead of her; a few days.
Q Just a few days? A Yes sir, she come with her father.
Did her sister Jennie come with here A Yes sir.
Q She and your wife came together? A Yes sir.
Q Her sister Jennie was the mother of this Robert Barnes? A Yes sir.
Q What were you doing down there in the Choctaw Nation, farming?
A Yes sir, worked on the farm awhile.
Q Well you were working on a farm all the time weren't you? AWell sometimes I was driving a team.
Q Did you make a crop of cotton? A No sir; corn crop.
Q Where did you locate when you came back from the Choctaw Nation?
A Near Cherokee Station there on Caleb Starr's place.
Q What time of the year was it you got back there? A It was ~~August~~ along in August some time in August, I disremember just what day in August it was, but we got back therein August.
Q You think that ~~xx~~ was in what year? A 1866.
Q What fixes that on your mind? A Well I kept count of how long the war run; I knowed what year the war come in on.
Q How long had the war been closed when you came back? A I come back next spring after the war closed.
Q You fixed it on your mind that way? A Yes sir, that's the way it was.
Q You know this woman Jennie Barnes, mother of Robert Barnes, whom did she belong to before the war? A I didn't know who she belonged to; I know who they always said she belonged to; she belonged to same man my wife did.
Q What was his name? A Johnson Whitmire; I never got personally acquainted with them until I got down there on Red River.
Q Was Jennie Barnes older or younger than your wife? A She was youngest, her mother and father said.
Q Was she married there in the Choctaw Nation? A No sir, I don't think she was until we come back to the Cherokee Nation I think.
Q Married after she got back? A Yes sir. As well as I recollect that's what they told me; I wasn't there when they married.
Q But you were seeing them all the time weren't you? A Yessir.
Q Did you see her very soon after she was said to have been married? A She staid there with me awhile on the Caleb Starr place.
Q Where were you when she married? A I was on the Caleb Starr place.
Q Where was she when she married? A She was over in Ft. Smith, I think, hired out.
Q And there is where she married Sam Barnes? A Yes sir, I think so.
Q How long was that after you had got back from the Choctaw Nation? A It was about one year I think, not quite a year; it was about six months.
Q She staid with you awhile on the Starr place and then hired to do some work over at Ft. Smith and there married? A Yes sir.
Q And where did she live after that? A Lived up on Lees Creek, there close by me.
Q How long did she stay at Ft. Smith? A I don't know exactly; not very long though; I don't recollect now just how long it was.
Q How long had she been married before you saw her; how long was it after her marriage that you saw her? A It was about two or three months I guess.
Q You saw her two or three months after she was married? A Yessir
Q Where did you see her? A She come over to my house there on a visit; on the Caleb Starr place

Q What creek was that you say she lived on at one time? A Lee's Creek.
Q How long had she been married when she began living on Lee's Creek? A She had been married as well as I can recollect, then about four or five years.
Q And she had quit work in Ft. Smith then had she, and gone to live on Lee's Creek? A Yes sir.
Q What was her husband doing all that time? A Why he was farming he went to farming after he come over into the Cherokee Nation.
Q But during that four or five years before he lived on Lee's Creek, you don't know what he was doing do you? A Yes sir, he moved over there and was hired out.
Q Moved over where? A The other side of Ft. Smith in the coal bank.
Q He worked there until he moved up on Lee's Creek? A Yes sir.
Q Now Sam Barnes, her husband, he makes no claim for himself as a Cherokee Freedman? A No sir, none as I ever known of.
Q He was working for wages up there about the coal bank I suppose? A Yes sir.
Q And after working there four or five years he then moved up on Lee's Creek and went to farming? A Yes sir, he was living over here when he was working in the bank; he had moved before he went to work over there.
Q What was his wife doing all that time when he was working at the coal bank? A She was working in the field there with me and my folks; they lived about three or four hundred yards from me.
Q You said just now she had come from over there up to Lee's Creek? A She did after they were married.
Q You said she came up there four or five years after they were married, and now you say she had come before that and lived with you: which one of these can I rely on? A I said about five years he lived over there and went back to work the other side of Ft. Smith about five years after he was married.
Q He went back there about five years after he was married to work? A Yes sir.
Q Well then how long did he live over there after that? A After he had moved over there?
AQ Yes.? A I don't know sir how long he worked; I couldn't tell exactly.
Q You now tell me that after he was married he came over here and worked four or five years and then went back to Arkansas and worked on a coal bank? A Yes sir.
Q That's what you tell me now is it? A Yes sir.
Q Well then how long did he work on a coal bank? A I couldn't tell you exactly how long he worked.
Q You told me awhile ago he worked four or five years on a coal bank? A No sir, I don't think I did; if I did I made a mistake.
Q How much was it you said, more or less? A It was less than that.
Q Whose coal bank was it? A It was called Jenny Lynn, over there about Huntington.
Q The town of Jenny Lynn? A Yes sir.
Q How long did he work over there about that coal bank off and on? A As well as I recollect it was about a year.
Q Not four or five years? A No sir.
Q Did he take his family along with him? A No sir, his family was over here living right by me.

Examined by Cherokee Representative, W.W. Hastings:

Q Who was living on the Cale Starr place at the time you were, immediately after you came back with your wife from the Choctaw Nation? A Ellis Harlin.
Q Did Ellis Harlin have some children living there? A He had two daughters.

Q What was their names? A Rutha and Emma.
Q They were living on the place at that time? A Yes sir.
Q Did he have any boys? A Yes sir, had one named Oce.
Q What was the other one's name? A I forget the other's name; he didn't come around there none, the other one didn,t.
Q They were living there at that time? A Yes sir.
Q They were single and unmarried and living there on the place at the time with their ~~family~~ father? A Yes sir.
Q All of these children that you have mentioned? A Yes sir, all but Oce; I don't know whether he was married or not; he just come in and out; I don't know what he was; the girls though were single,

Com'r Breckinridge: The applicant states that he has lived in the Cherokee Nation all his life; he is not thirty-three years of age, but he is not identified on the Roll of 1880 nor upon the roll of 1896 nor upon the Kerns-Clifton roll; his mother is said to have died some ten years ago, and she is not identified on the roll of 1880; that testimony relating to his mother tending to establish that she came to the Cherokee Nation within the period required by the treaty of 1866, is of an indefinite character; a sister of the applicant's mother is on Cherokee Freedman doubtful card number 42, and the testimonyof the husband of that sister, Colly Albert, is conflicting in its character; while this application is not established in any satisfactory manner, yet at present it will be placed upon a doubtful card for the further consideration of the evidance, and the final decision of the Commission will be made known to the applicant at his postoffice address.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recored the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this April 29, 1901.

Commissioner.

DEPAR
MISSION
APR 13 1901

Henry Parker 1.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T. April, 16th 1901,

In the matter of the application of Henry Albert for the enrollment of himself and two children as Cherokee Freedmen; he being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q What is your name? A. Henry Albert.
Q How old are you? A. 29.
Q What is your post office? A. Vian.
Q In what district do you live? A. Illinois
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Who do you want to have enrolled besides yourself? A. Two children
Q How long have you lived in the Cherokee Nation? A. Raised and born here.
Q Have you lived here all your life? A. Yes sir.
Q Give me the name of your father? A. Colley Albert.
Q Is he dead? A. No sir he is alive.
Q Give me the name of your mother? A. Martha Albert .
Q She is alive is she? A. Yes sir.
Q Give me the names of your children? A. Harry
Q How old? A. Three.
Q Next child? A. Raymond.
Q How old? A. One
Q Give me the name of the mother of these children. Florence.
Q How old is she? A. 19.
Q Do you claim for her as a Cherokee Freedman? A. No sir.
Q When were you and she married? A. In 1897.
Q Have you a certificate of your marriage? A. No sir, not with me.
Q Your mother is here? A. Yes sir.
Q She knows of your being married? A. Yes sir.

MARTHA ALBERT, being sworn as a witness testified before Commissioner C. R. Breckinridge as follows:

Q What is your name? A. Martha Albert.
Q How old are you? A. 57 or '8.
Q What is your post office? A. Melvin.
Q How long have you lived in the Cherokee Nation? A. Always, dont know no other place.
Q Are you the mother of this applicant here? A. Yes sir.

NOTE: ( By Commissioner ) Her case is Cherokee Freedman, Doubtful Card, No. 43.

Q Was this child born in the Cherokee Nation? A. Yes sir.
Q Has he lived here all his life? A. Yes sir.
Q He is married? A. Yes sir.
Q What is the name of his wife? A. Florence
Q Was he ever married except to her? A. No sir.
Q Was she ever married except to him? A. No sir.
Q They are living together now as husband and wife are they? A. Yes sir.

By Commission of Applicant:

Q You were never married except to this woman? A. No sir.
Q Was she ever married except to you? A. No sir.

The Kern-Clifton roll of the Cherokee Nation examined and the applicant identified thereon as follows:
Page 158, No. 2029, Henry Albert, Sequoyah District.

The 1880 authenticated roll of the Cherokee Nation examined and the name of applicant not identified thereon.

The 1896 census roll of the Cherokee Nation examined and the applicants not identified thereon

By Com'r Breckinridge,- The applicant applies for the enrollment of himself and two children, he makes no application for his wife whom he states is not a Cherokee Freedman, and to whom he was married in 1897. The fact of said marriage s is established by his own and his mother's testimony, and also the fact that neither was previously married and that they have lived together ever since their marriage. The applicant states that he has lived in the Cherokee Nation all his life, but is not identified on the 1880 roll, or the census roll of 1896. He is identified on the Kerns-Clifton roll. Reference is made to the case of his mother Cherokee Freedman Doubtful Card No. 48. The applicant will now be listed for enrollment as a Cherokee Freedman on a doubtful card, and when he files with the Commission satisfactory and proper certificates as to the birth of his two children, Harry and Raymond Albert, they also will be listed for enrollment on a doubtful card as Cherokee Freedmen.

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Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 18th of April, 1901, at Fort Gibson, I. T.

Commissioner.

To be filed with cases of Henry Albert, et al., C. F.D.#10[illegible].

# S U P P L E M E N T A L  T E S T I M O N Y .

F.-D.#48.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 21st, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of Martha Albert, et al., as Cherokee Freedmen:

RUTH HUNT, being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
A. S. McRea, Attorney for applicants;
W. W. Hastings, Cherokee Representative.

Q What is your name? A Ruth Hunt.
Q How old are you? A 54.
Q What is your post office address? A Vinita.
By W. W. Hastings: Mrs. Hunt, what was your maiden name?
A Harlin.
Q What was your father's name? A Ellis Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Where did you go during the war of the Rebellion?
A Fort Smith, Arkansas.
Q After the war did you return to the Cherokee Nation? A Yes, sir.
Q When did you return to the Cherokee Nation? A 1867.
Q What time in the year? A It was either February or March. I don't remember which.
Q But '67? A Yes, sir.
Q Did any colored people return with you to the Cherokee Nation when you came back? A No, sir.
Q Did you return with your father? A Yes, sir.
Q To what point did you return? A About four miles this side of Fort Smith, on the line of Arkansas, about a quarter of a mile from the line, Arkansas line.
Q Did you know a colored woman by the name of Martha Albert who is the wife of Celly Albert? A There was a man worked for us we always called Albert, I don't know what his other name was, his wife was named Martha; he worked for us that summer we come back.
Q The summer of '67? A Yes, sir.
Q Did they return with you? A No, sir.
Q Were they over there on the place when you returned? A No, sir.
Q Do you know where they came from? A No, sir, I don't, but Pa went over in Arkansas somewhere and hired the man to come and work, but I don't remember where he got him. He had a man at work for us and the man quit and he went away somewhere and got this man, he got him in Arkansas somewhere towards Van Buren, but I don't know.
Q You brought no colored people back with you? A No, sir.
Q Did these people claim at that time to be Cherokee Freedmen?
A I never heard it; if they did I don't remember anything about them ever claiming.
Q Do you know what became of them after they left your place?
A No, sir, I never seen or heard tell of them until they was taking the roll at Vinita here before.
Q In 1896? A Yes, sir, that is the only time I have ever heard of them since.
Q Are you a Cherokee citizen by blood? A Yes, sir.
Q You reside at Vinita? A Yes, sir.

CROSS EXAMINATION BY A. S. McRea:

Q Mrs. Hunt, did you know the applicant, Mattie Albert, before the war? A No, sir.

Q Do you know her at all? A I don't know her only just as far back as 1867; I remember there was a man worked for us by the name of Albert, we called the woman Martha and the man Albert, they worked for us here during the summer of 1867, that is all I know about it.
Q You don't know whether she is the one who belonged to Johnson Whitmire before the war or not? A No, sir, I don't know; I never heard her say that she belonged to the Nation before the war.
Q Did you know the Whitmires? A Yes, sir.
Q Did you know any of their slaves? A I can't remember them I know them but I can't remember them.
Q Now, this man Albert that worked for your father, you don't know his given name? A No, sir, we just called him Albert, and I don't remember what his other name was.
Q You don't know whether Albert was a given or surname? A No, sir; I don't know which it was.
Q Would you know the same persons if you would see them again?
A I don't think I would, it has been so long.

Re-direct examination by Mr. Hastings:

Q How far did you live from Johnson Whitmire before the war?
A About ten or 12 miles. I knew the family and I guess knew the slaves, I don't remember them now.
Q I believe you said you were 54, that would make you be born in 1847; you would be about 14 years old when the war come up?
A Yes, sir.
Q I was going to ask you if you lived in ten or twelve miles of Johnson Whitmire and if this woman had belonged to him before the war, it it quite likely you would have known that in 1867?
A It seems that she would have known people that I did and would have said something about it. I went to school with Whitmire's children and have been at Ben Whitmire's house and I guess would remember some of the names if I heard them recalled, but I can't remember them now.
Q You didn't recognize this woman? A No, sir, I would not recognize her now.
Q You didn't recognize her then as belonging to Johnson Whitmire?
A No, sir.
Q Never heard her remark about it? A No, sir.

EMMA FINLEY, being duly sworn by Commissioner T. B. Needles, testified as follows: Direct examination by Mr. Hastings:

Q What is your name? A Emma Finley.
Q What is your age, Mrs. Finley? A 51.
Q What is your post office address? A Tahlequah.
Q Are you a Cherokee by blood? A Yes, sir.
Q Recognized citizen of the Cherokee Nation? A Yes, sir.
Q Mrs. Finley, what was your maiden name? A Emma Harlin.
Q You are a sister of Mrs. Hunt who has just testified?
A Yes, sir.
Q What was your father's name? A Ellis Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Did you come back with your father after the war to the Cherokee Nation? A Yes, sir.
Q When did your father die? A '67
Q Where did he die? A Down in Sequoyah district, near Fort Smith.
Q To what point in the Cherokee Nation did you return after the war?
A Down on the line close to Fort Smith.
Q About how far from Fort Smith? A Four miles.
Q I ask you if any colored people returned with you? A No, sir.
Q What time did you return to the Cherokee Nation? A In '67.
Q What time in '67? A I am not positive what month it was, it was either February or first of March, I think.

Q Did any colored people return with you? A No, sir, there was not.
Q Do you remember a colored woman by the name of Albert, Martha Albert? A Why, yes, I remember her, she didn't come back with us.
Q She didn't come back with you? A No, sir.
Q Mm When do you first remember of having seen her?
A I think it was the last of March or first of April. I ma not positive which, but it was along about that time.
Q It was after you returned to the Cherokee Nation after the war?
A Yes, sir, after we come back in '67.
Q Do you know where she came from? A In the State some place.
Q She worked for you that season, or part of the time?
A Part of the time.
Q She didn't come back with you or your father? A No, sir.
Q Do you know whether she claimed at that time she was a Cherokee slave? A No, sir, she didn't; if she did I never heard her. Never claimed at all.
Q Mrs. Finley, did you know Johnson Whitmire before the war?
A No, sir, I had heard of him but I was not acquainted with him.
Q You were young? A Yes, sir.

Cross examination by A. S. McRea:

Q Mrs. Finley, where did you all go to before the war, did you leave the Nation? A Before?
Q Yes. A No, I left the Nation after the war began.
Q Left during the war? A Yes.
Q Where did you go to? A Fort Smith.
Q Did you know Martha Albert at that time? A When I left the Nation?
Q Yes? A No.
Q Where was the first time you ever seen Martha Albert? A In '67.
Q Where at? A In Sequoyah District.
Q At what time of the year was it? A It was in the last of March or first of April, I am not sure which.
Q In 1867? A Yes, in '67.
Q Do you know whether she had ever lived in the Nation?
A No, I don't.
Q Did her husband work for you all? A Yes, in '67.
Q What was his name? A Colly, that is all the name I ever heard.
Q Just knew him as Colly? A Yes, that is all we called him.
Q Do you know whether or not they were slaves? A No, I don't know.
Q And you say they came here from the State of Arkansas to work for your father in 1867? A Yes, s
Q You don't know whether or not of your own knowledge that had been in the Territory prior to that or not? A No, I only know that he went over in the State and got them.
Q What were they doing in the State? A I don't know.
Q Don't know whether they were living there or not?
A I suppose they were living there want there and got them.
Q Isn't it possible that they could have been over thereat work?
A It is possible, it is not impossible, of course; they had every thing they had over there.
Q Had all their possession in the State of Arkansas? A Yes.
Q Did they move those possession over to your father's place when they come there? A Yes.
Q What possessions did they have? A They didn't have much, just what they had in the house and one horse.
Q You don't know whether they left the Territory or not? A No.
Q And the first you knew about them was when they worked on your father's place in 1867? A Yes.

HARRY STILL, called as a witness on the part of Applicants being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Harry Still.
Q What is your post office? A Haydon.
Q What is your age? A Well, sir, I don't know exactly, something over 50.
Q You are a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A No, sir.
Q You are a contested citizen? A No, sir.

Direct examination by A. S. McRea:

Q Mr. Still, you are called on to give some evidence in the case of Martha Albert; are you acquainted with Martha Albert? A No, sir, I am ot.
Q Did you know Johnson Whitmire? A Yes, sir, I knew Johnson Whitmir .
Q Did you know any of his slave? A Yes, sir, I knowed his slaves, I knowed 'em all, he was a brother of my Master.
Q Did you know this woman Martha? A Martha Whitmire? I didn't know any Martha Whitmire.
Q Did you know Colly Albert? A I know Colly Albert when I see him.
Q Did you know him before the war? A No, sir, I didn't.
Q Did I understand you to first say that you knew Martha Albert, or that you did not know her? A I do not know her; I knew Johnson Whitmire's slaves, but I did not know her.
Q Do you know Eliza McGrady? A No, sir.

Cross examination by Mr. Hastings:

Q Where did you live before the war? A Lived on Barren Fork at George Whitmire's place.
Q What kin was George Whitmire to Johnson? A Brother.
Q How far did they live apart? A It must have been four or five miles.
Q Are you well acquainted with Johnson Whitmire? A Yes, sir.
Q Are you well acquainted with Johnson Whitmire's slaves?
A Yes, sir.
Q Did you know him to have a slave by the name of Martha?
A No, sir, I didn't know one by that name.
Q Didn't know one by that name? A No, sir.
Q You lived there in four or five miles? A Yes, sir.
Q If he had one you would have known it? A Johnson had a good many colored people; I knew most of them, I knew all of them, all he raised.
Q This woman claims now to be 54 or 55 years of age, which would have ...ade her 15 or 16 years old when the war came up; you didn't know any Martha Whitmire that was something of that age that belonged o Johnson Whitmire? A No, sir.
Q How old are you Harry? A I am something over 50 years old, about 54 as near as I can get at it.

re-direct examination by A. S. McRea:

Q Did Johnson Whitmire own a slave by the name of Charles Whitmire, or Charles Bolen? A If he did I didn't know, he may, I have heard of Charles Bolen, but I don't know who he is.
Q Well, did he own a slave, a family slave, by the name of Nancy?
A Not as I know of, sir.
Q Now, as I understand you to say Mr. Still, you didn't know all the slaves of ...nson Whitmire? A Yes, sir; I was acquainted with 'em, they was like to me.
Q You were kin to all them? A Yes, sir, kin by blood and I know them.

---oooOOOooo---

DECLARATION OF INTENTION

(Alien.)

UNITED STATES OF AMERICA,

DISTRICT OF [redacted]

I, [redacted], aged [redacted] years, do declare on oath that my personal description is: Color [redacted], complexion [redacted], color of hair [redacted], color of eyes [redacted], height [redacted] feet [redacted] inches, weight [redacted] pounds, visible distinctive marks [redacted]; that I was born in [redacted] on the [redacted] day of [redacted], [redacted]; that I am now residing at [redacted]; that I emigrated to the United States of America from [redacted] on or about the [redacted] day of [redacted], [redacted], by the vessel [redacted]; that I am not an anarchist; that I am not a polygamist nor a believer in the practice of polygamy; that it is my bona fide intention to become a citizen of the United States of America and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to [redacted] of which I am now a subject; that I will support the Constitution of the United States of America and the laws made in pursuance thereof; that I will support and defend such Constitution and laws against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I make this declaration without any mental reservation or purpose of evasion, so help me God.

[redacted]

Subscribed and sworn to before me this [redacted] day of August, 1908.

[redacted]

Clerk.

(2)

DECLARATION OF INTENTION

(Alien.)

UNITED STATES OF AMERICA,

DISTRICT OF [redacted]

I, [redacted], aged [redacted] years, do declare on oath that my personal description is: Color [redacted], complexion [redacted], color of hair [redacted], color of eyes [redacted], height [redacted] feet [redacted] inches, weight [redacted] pounds, visible distinctive marks [redacted]; that I was born in [redacted] on the [redacted] day of [redacted], [redacted]; that I am now residing at [redacted]; that I emigrated to the United States of America from [redacted] on or about the [redacted] day of [redacted], [redacted], by the vessel [redacted]; that I am not an anarchist; that I am not a polygamist nor a believer in the practice of polygamy; that it is my bona fide intention to become a citizen of the United States of America and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to [redacted] of which I am now a subject; that I will support the Constitution of the United States of America and the laws made in pursuance thereof; that I will support and defend such Constitution and laws against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; and that I make this declaration without any mental reservation or purpose of evasion, so help me God.

[redacted]

Subscribed and sworn to before me this [redacted] day of August, 1908.

[redacted]

Clerk.

File with Cherokee Freedman, D- 102, Henry Albert.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedman.

Testimony on behalf of Cherokee Nation.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

WATT WHITMIRE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Watt Whitmire.
Q What is your postoffice? A Westville.
Q How old are you? A 48.
Q What is your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte Whitmire.
Q In what district did your father live before the war?
A Going Snake.
Q Was there any other Johnson Whitmire in Going Snake at that time, that was grown, an old man with a family? A No, sir, not as I know of; there was a Johnson, a son; he is younger than I am.
Q Well, he was born about the time or after the war came up, or when; about how old is he? A He is some thirty odd, some 37 or 8.
Q Did your father own some slaves when the war broke out? A Yes, sir.
Q Do you know whether or not your father or your mother owned a slave by the name of Martha when the war broke out? A No, sir, not as I know of; none by that name.
Q Did your father or mother own a slave by the name of Nancy, a woman? A No, sir, not as I know of.
Q This Martha, according to her statement, would be some 14 or 15 years of age at that time? A No, sir, I don't recollect nary one by that name.
Q You are Johnson Whitmire's son? A Yes, sir.
Q You were living at home at the time the war broke out? A Yes, sir.
By A. S. McRea: Mr. Whitmire, how many slaves did your father own?
A I don't know the exact number.
Q Were you acquainted with the names of all the slaves of your father? A Why I believe I recollect the oldest, I don't know that I recollect the smallest children's names, of all.
Q About what was approximately the number of old slaves? A Well, I will have to count them up.
Q Well, give an approximate statement? A About 12 or 14, or somewhere along there; I don't know just exactly.
Q Did he own a slave by the name of Nancy? A Not as I recollect of; I don't recollect any such name.
Q About how old were you at the breaking out of the war? A I was born in '58; I believe the war broke out in '62, wasn't it; about '61.
Q You were about 3 years old? A 3 or 10 years, somewhere along there.
Q How couldn't he have possibly owned this female girl and you not have any recollection of it? A I recollect all the names from my size up, but I don't recollect of any such name as Martha. There wasn't but two girls, and one was named Mary and one Nannie.
Q They were the only two female colored girls of the ages of 12 or 14 years old? A Well, they were younger than that; Nannie was younger than that and Mary was I reckon maybe one or two years older

than me; I don't know exactly, but I just judge from her size.
Q Well now, do I understand you to say this number of fourteen or fifteen adults, or older slaves, did they have any children? A Oh yes, that included men and women together.
Q Included men and women together? A Yes, sir.
Q Did they have any children? A Yes, sir.
Q Do you remember the names of them all? A Well not of all, I remember the names of some of them.
Q About how many children did each family have? A Well, there was one woman by the name of Fronie had one child named Susie, and there was an old lady named Sukie had two or three, and I don't recollect the names of but one boy, his name was Joe, and this girl Nannie I spoke of was the child of old Aunt Sukie; and there was one by the name of Rachel, I don't recollect just how many children she had, but one or two or three, somewhere along there; they were quite small when the war broke out.
Q That is all the children? A No, sir, I don't recollect just how many children there were in the while family of the darkies, but there was Rachel's children, and Aunt Sukie's children, and Fronie's child, one child, I believe isall I recollect of.
Q Well, where did your father's slaves go during the war? A Well I can't tell you exactly; my understanding is they went north.
Q That they all went north? A Yes, sir, part of the men folks left here before I left the old place, and when I left there I left part of the women folks at home, at the old home place.
Q Leave any of the children? A Yes, sir.
Q Have you any recollection what became of them? A No, sir.
Q Did you ever see any of them any more? A No, sir, never saw any more of them any more at all.
Q Did you go away yourself? A Yes, sir, taken away.
Q Where did you go? A Went from there to Cane Hill, Arkansas.
Q When did you return? A After peace was made; went on from Cane Hill south.
Q Have you any acquaintance with this alleged party to this suit, Martha Albert; are you acquainted with her? A No, sir.
Q Don't know her? A Don't know her at all.
Q How long have you lived in the Cherokee Nation now since your return from Cane Hill; was that the place you went to? A Went from the Nation to Cane Hill and from Cane Hill went south in the Choctaw Nation.
Q Then when did you return from the Choctaw Nation to the Cherokee Nation? A Returned in '67.
Q To what point? A Back at the old home place in Going Snake district.
Q You have lived here continuously ever since? A Yes, sir.
Q Were you extensively acquainted with the colored people in and around, or rather in Going Snake district? A Yes, sir.
Mr. Hastings: Now as I understand you, Mr. Whitmire, you stated that you remember all of the slaves that were of your age and older, but those that you don't remember were those that were younger or smaller? A Yes, sir; I remember some that were younger than I was, them that I called a while ago.
Q You are positive your parents didn't own a slave by the name of Nancy? A No, sir, none that I know of, there wasn't any Nancy on the place, and I believe I can call the names of all the women.
Q Are you positive your parents didn't own a girl older than yourself named Martha? A No, sir, wasn't any on the place named Martha.

J. W. ALBERTY, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A J. W. Alberty.

Q Mr. Alberty, what is your age? A Well, I am 67 years old.

Q What is your postoffice? A My postoffice is Westville, Indian Territory.

Q What district do you live in? A I live in Going Snake district.

Q You a Cherokee by blood? A Yes, sir.

Q Mr. Alberty, where did you live in the Cherokee Nation before the war? A In Going Snake district.

Q Near where you now live? A Yes, sir.

Q Did you know Johnson Whitmire? A Yes, sir.

Q Did you know him before the war? A Yes, sir.

Q How far did you live from him? A Well, it was about ten or twelve miles, I reckon we called it.

Q Did you know his family? A Well, yes I knew his family.

Q This witness here before, named West Whitmire, was he a son of Johnson Whitmire? A Yes, sir.

Q I will ask you if you were acquainted with a colored man by the name of Charles Boland before the war? A Yes, sir, he was a mixed blood, free.

Q I will ask you if you knew a colored woman by the name of Nancy Whitmire, alleged to have belonged to Johnson Whitmire before the war?

A Yes, sir, I knew her.

Q Now, if you know what became of Nancy Whitmire and Charles Boland I wish you would make a statement to the Commission? A The Whitmire boys sold Nancy to a man named Dillingham, and he moved right across the line from where I lived, five or six miles, and owned them there until he moved off to Texas, Charles Boland and Nancy; I knew them better after Dillingham got them than I did before.

Q Who sold them to Dillingham? A The Whitmire boys, George Whitmore and Johnson Whitmire; they were brothers and they sold them at the time they divided up the property.

Q No about how long before the war was that they sold them, about what year? A I reckon it must have been in '47 or '8, I haven't got the dates, I wasn't expecting anything of this kind, and I didn't get the dates, but it must have been in '47 or 8.

Q What was Dillingham's citizenship? A He had none.

Q Was he a white man or Cherokee or what? A He was a white man and lived in the state.

Q What state? A Arkansas.

Q Lived across the line in the State of Arkansas? A Across the line, yes, sir, in the State of Arkansas.

Q Do you know what finally became of him out there? A Mr. Dillingham, in about '50 or '51 moved to Texas and carried the family, and Boland went with them, he was free but he followed this family off to Texas.

Q Do you know whether he had Nancy for a wife or not? A Yes, Boland had this Nancy for a wife, and claimed the family, and when Dillingham carried the family off he went with them.

Q How far did this man by the name of Dillingham live from you?

A About five or six miles.

Q How how far did you live from the Cherokee line up there?

A Well about that time I only lived about half a mile right at it.

Q On the west side of the Cherokee and Arkansas line? A On the west side of the Cherokee line.

Q And Dillingham lived on the Arkansas side? A On the Arkansas side, just over near what is called Dutch Town or Salem.

Q He laid no claim to Cherokee citizenship? A No, sir, not a bit; he had a son that was adopted, but the old man had none.

Q And I believe you stated that along about '50 Mr. Dillingham carried these people to Texas? A He carried them to Texas.

By A. W. McRae: I understand you to say Johnson Whitmire sold Nancy? A Yes, sir.

Q Nancy Sheppard then did belong to Johnson Whitmire? A Yes, sir. she did belong to Johnson Whitmire; there were two brothers of the children, George and Johnson Whitmire, and they owned an interest in them and they both sold their interests.

Q About what year was that? A Well sir, I can't positively say, but it was in or about '47 or '8; I have nothing to guide me by.

Q Do you know Martha, the child of Nancy? A No, sir, they were all small when they went off, I don't know any but a boy they called Ellis; Dillingham brought him back with him just a little while before the war came up.

Q Did Nancy have children when Johnson sold her? A Yes, sir.

Q Did he sell the children with her? A Yes, sir.

Q Nancy's whole family was sold? A The whole family went, yes sir.

By A. S. McRea: Mr. Alberty, where do you live? A I live in the eastern part of the Cherokee Nation here.

Q And you say Johnson Whitmire sold Nancy, the alleged mother of the applicant, Martha Albert, in 1847? A I didn't say the time he sold her, because I don't know that, he sold Nancy, Charles Boland's wife to Dillingham, and the children, but I don't know nothing about Martha at all, I didn't say the mother of her, but if she is the daughter of Nancy, why she - -

Commissioner: Was sold with the balance, was she? A Yes, sir, sold with the balance; the whole family was sold.

A. S. McRea: To whom did you say they were sold? A Dillingham.

Q Where did he live? A He lived in Texas.

Q Do you know of your own knowledge that this woman, Nancy, went to Texas? A Yes.

Q How do you know that? A I saw them start.

Q Did you see them arrive? A I didn't see them arrive in Texas, but I saw them start on the road.

Q Do you know whether or not, of your own knowledge that they arrived there? A No, sir, I can't say that, but I guess from all the circumstances they did.

Q What fixes it on your mind so very definitely that they were sold in '47? A Well, just as I said before, I said I wasn't positive about that, but it was in or about that time.

Q For how much was she sold? A Well I can't exactly say now what they did bring, because they got some horses and some cattle and some money.

Q How many horses? A I can't answer that question.

Q How many cattle? A I don't know.

Q How much money? A Well, I don't know that that would amount to anything, because it was satisfactory to them.

Q You say they were sold and we want to know what was the status of the sale? A Well I don't know the amount that they got for them, I can't say.

Q Did you see any money exchanged? A No, sir, but after that they changed hands, the darkies went.

Q It is true, they could possibly have changed hands without any sale? A Well hardly that days.

Q Then in so many words, you don't know whether that was a bona fide sale or not or your own knowledge? A Well, of my own knowledge, I would have to say it was a bona fide sale, or else he wouldn't have taken them out of the Cherokee Nation.

(Foregoing answer read by stenographer at request of attorney for applicant.)

Witness: Yes, sir.

McRea: He said you would suppose it was a bona fide sale.

Commissioner: Was that your answer?

Witness: A Yes, sir.

Commission: How long after the sale was it before Mr. Dillingham taken them to Texas? A It must have been 2 or 3 years, they lived right there close neighbors to us two or three years after they

bought them.

Q With whom? A With Dillingham, in the State of Arkansas.

Q Then when the sale was made Dillingham at that was time was living in Arkansas? A Yes, sir.

Q Is your first statement that he was living in Texas correct, at the time of the sale? A No, sir, I didn't make that, he was living in Arkansas and moved to Texas, I said, in about '50 or '51 and taken them with him in about '50 or '51.

McRea: I would like to examine the face of the record.

Commissioner: The record shows for himself. If the witness contradicts himself the record shows it. I think the witness did state when you asked him where Dillingham lived, that he lived in Texas, but you didn't specify the exact time when he lived, but the witness stated plainly now at the time Dillingham bought the slaves he lived in Arkansas and moved to Texas a few years after.

McRea: Did you ever see Nancy Whitmire any more? A Well, I never saw her after he moved off to Texas with her.

Q Are you acquainted with Martha Albert, the applicant in this behalf? A No, sir.

Commissioner: You don't know Martha at all then? A No, sir; well there were several children, but I don't recollect their names; there were several children then only they were small.

Q You have never seen the averred mother of Martha, Nancy, after Dillingham took her to Texas? A No, sir.

McRea: And you don't know whether or not this woman, Martha, was one of the number of these children that accompanied the mother, Nancy, to Texas or not? A No, sir, I don't.

Commissioner: Did Nancy have children to your recollection? A Yes, sir.

Q You don't recollect how many? A Well, no I don't, there was three or four, four children, there might have been more and might have been less.

Q Know whether they were boys or girls? A There was one boy.

Mr. Hastings: I believe you states that these children that she had went with her? A Yes, they all went with her.

McRea: About what was the age of these children? A Well, they were small, they were not very large.

Q 5, 4, 5, 6 ~~and~~ or 10 years, something like that? A Well, he must have been 6 or 7 or 8 years old, maybe 10, I can't state that.

Q Was that a girl or a boy? A I think the oldest one was a girl.

Commissioner: This testimony will be made part of the testimony in the cases, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152, D-143, D-182. Attorney McRea for applicant objects to testimony being filed in the case of Robert Barnes et al., and the objection is overruled.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above cause, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C Jones

Sworn to and subscribed before me this 5th of September, 1901.

Commissioner.

File with Cherokee Freedman D- 102, Henry Albert.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 11, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Supplementary evidence introduced on behalf of applicants.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

The Commission: Now Mr. McRea, state briefly what you desire to prove by this witness.

A. S. McRea: Applicant desires to offer testimony in behalf of herself et al., by Sam Barnes, showing that mother of applicants did return to the Cherokee Nation within the time of the treaty stipulations, and that so far as the sale of she and her mother to one Dillingham, it is untrue.

The Commission: When you speak of the applicant, I suppose you mean Martha Albert?

McRea: Yes, Martha Albert and others.

Mr. Hastings: The Cherokee Nation objects to the applicant being allowed to introduce any testimony in this case on the question of the return of any of the applicants, for the reason that applicants introduced their testimony on both ownership and return, and the Cherokee Nation introduced testimony on both, and the only testimony which can legally be introduced by the applicant now as testimony in rebuttal of new matter brought out by the Cherokee Nation in its testimony.

The Commission: The objection of the Cherokee Nation will be noted.

S. B. BARNES, appearing before the Commission and being duly sworn and examined, testified as follows:

A. S. McRea: Give us your name, Mr. Barnes? A S. B. Barnes.
Q Your age? A About 57, going on 58.
Q Postoffice address? A Benge.
Q Mr. Barnes, are you acquainted with the applicant, Martha Albert? A Yes, sir.
Q How long have you known her? A I have known her going on 37 years.
Q Do you know whether or not she was a slave in the Cherokee Nation before the war of the rebellion?

Mr. Hastings- I object to that, both because the very testimony itself shows that he didn't know that; said he hadn't known her but 37 years.

Commission: Ask him the question.

Q Where was she when you first knew her? A She was down here right close to Cherokee.
Q Where is that? A That is down right on the line, at the Cherokee Junction.
Q Was that in the Cherokee Nation? A Yes, sir.
Q Did you know her mother? A Yes, sir.
Q What was her mother's name? A Nancy.
Q How long had you known the mother? A I got acquainted with her in '65.
Q Where was she when you first met her? A I met her down there.
Q In the Cherokee Nation? A Yes, sir.
Q Do you know whether or not they went out of the Cherokee [illegible]

or not?

Mr. Hastings: He says he never met them till '64 and '65; you ought to know that he can't testify to that.

McRea: He might have heard; we have been taking hearsay testimony.

Commission: Answer the question.

A I don't know.

Q Did you ever hear of the mother of your wife, Sarah Barnes, having been sold to a man by the name of Dillingham?

Mr. Hastings: Objected to by the Cherokee Nation on the ground of hearsay.

Commission: Ask him if he knows.

Q Do you know? A No, sir, I don't know it.

Q Did your wife ever tell you they were sold.

McRea: What his wife told him is admissable.

Mr. Hastings: Objected to by the Cherokee Nation on the ground that it is clearly inadmissable, it being hearsay testimony, and a declaration in interest of the party.

Commission: Let him answer the question.

Q Did your wife ever tell you whether or not she and her mother were sold to Dillingham of Arkansas? A No sir, she never did.

Q I will ask you if you and your wife ever had any conversation pertaining to her citizenship?

Mr. Hastings: Objected to by the Cherokee Nation for the reason that it is clearly hearsay and inadmissable.

McRea: That is not hearsay testimony.

Commission: I will let him answer the question.

Mr. Davenport, Cherokee attorney: I will object on the ground that he can't testify for or against his wife, under the rules of law. I think I recollect that the Commission has served notice that it would follow the ordinary rules of evidence.

McRea: The Commission served notice that it would not confine itself to the different rulings and technicalities of law in trying testimony in this matter.

Commission: Go on with the examination, Mr. McRea.

(Question read to witness by stenographer.)

A Why of course, she met the John Chambers Court at Tahlequah.

Q Where did you marry your wife? A Marry her; we were engaged here in the Cherokee Nation but we were married at Fort Smith.

Q She was living in the Cherokee Nation when you courted her?

A Yes, sir.

Q Now when did you marry her? A I married her in November, '66.

Mr. Hastings: Where did you live before the war? A I lived in Texas.

Q What county? A Fannin County.

Q What was your owner's name? A Higginbotham.

Q What was his first name? A Thomas Higginbotham.

Q What was the nearest town to you? A Bonham.

Q Did you know Jerry Starr down there? A No, sir.

Q Did you see your wife down there? A No, sir.

Q You didn't? A No, sir.

Q Did you see Nancy Whitmire, or Nancy Boland, down there? A No, sir

Q See Martha Albert? A No, sir.

Q How old are you? A I have turned 58 years old.

Q What is your father's name? A My father, Bob Barnes.

Q When did you leave Texas? A I left Texas directly after the war ended.

Q Well, did you make a crop down there the year the war ended?

A I wasn't big enough, I didn't make no crop.

Q Who were you living with? A I was living with my old mistress.

Q She wasn't a Cherokee? A No, sir.

Q Well, did you make a crop with your old mistress, or for her, [illegible]? A Yes, sir

McRae: I object to all that: It is immaterial to the question at issue.

Commission: Answer the question.

Q You made a crop for her you said? A Yes, sir.
Q The year the war ended? A Yes, sir.
Q Now then you stayed there then that year? A I left there just as the war was up.
Q I thought you said you made a crop there? A I did.
Q Then you laid that crop by, did you? A The war came to an end in the spring of '65 if I understand anything.
Q Well, how did you come to leave Texas and who did you go with?
A I come by myself.
Q Just alone? A Yes, sir.
Q Come afoot? A No, sir.
Q How did you come? A I had a horse.
Q Well, where did you come to? A I come to Fort Smith.
Q You had never been to Fort Smith before? A No, sir.
Q You had never heard of Fort Smith in your life before? A Oh yes sir, I hadn't been dead I don't reckon, I was a man.
Q How far below Fort Smith did you live when you lived in Texas?
A From Fort Smith?
Q Yes? A You mean just out on the river?
Q In Texas? A It is about 200 miles.

McRae: I object to that, the question is misleading in its nature, and I object to it.

Commission: He has already answered the question.

Q You came direct to Fort Smith? A Yes, sir.
Q Who did you work for there? A I worked for Bill Hall, five miles out south of town.
Q How long did you work for him? A I worked there a couple of weeks, or about a week, or couple of weeks.
Q Then where did you go? A I crossed over here in the Cherokee Nation.
Q What induced you to leave down there and leave your folks and go to Fort Smith at that time? A Just because I had a notion to go to Fort Smith.
Q Then what induced you to leave Fort Smith after being there only two weeks and go over on the Nation side? A Just because I wanted to go.
Q You didn't know anybody over there, did you? A No sir.
Q You had never seen a soul? A Of course I had seen people.
Q You had never seen one of them over there at Fort Smith?
A Not from Kansas the Cherokee Nation side across the river; why I saw people down in Fort Smith out of the Cherokee Nation.
Q Who did you meet that lived on this side of the river, at Fort Smith? A I met Tom Stonecread and Mrs. Franklin, I don't know how many people I didn't meet.
Q Whose place did you go to on this side of the river first? A I went to Mr. Stonecread's place the first place I was at, right on the line.
Q How long did you stay there? A I didn't stay there but an hour or two.
Q Then where did you go? A I went back to town.
Q How long did you work there in town? A I don't know exactly how long.
Q A year? A I don't know exactly how long I worked in town.
Q As years? A I might not have worked there more than two hours, I don't know.
Q Don't know whether it was an hour or a year? A Yes, sir, I do know how long.

McRae: He has answered that he don't know.

Commission: But has answered the question.

Q About how long? A I worked there two or three different times.

sometimes I would be in town a week and sometimes not but a day or two and sometimes two or three days.

Q Where were you making headquarters, or home? A I made headquarters sometimes out at Bill Belt's and after that I worked for Tom Stoneroad some right on the line of the Cherokee Nation.

Q How long did you say a while ago you had been married? A I said I married in November, '66.

Q How many years did you say that was? A I didn't say nothing about the years.

Q Who married you? A I was married by the clerk.

Q What was his name? A I don't know his name.

Q Clerk of what court? A Clerk of the Court there, at Fort Smith.

Q On the Arkansas side? A Yes, sir.

Q You got a license over there, and he married you? A I think I got license.

Q Now what is your full name? A Sam Barnes is my full name.

Q What is your wife's name? A Her name was Jennie.

Q Jennie what? A Jennie Boland.

Q She is a sister to Martha Albert? A Yes, sir.

Q Younger than Martha? A Yes, sir.

Q Have you ever been married before? A Yes, sir, had been married twice before.

Q Where had you been married? A In Texas.

Q What was your first wife's name? A Anna.

Q She dead? A Yes, sir.

Q What was your second wife's name? A Name was Mandy.

Q What year was it they had that investigation, that Chambers Court you speak of? A That was in '78.

Q Was your wife admitted or rejected? A Must have been rejected by us having to be here.

Q Did you make a statement up there before that Court? A Yes sir.

Q You never saw your wife before the war? A No sir.

McRea: Did you see the mother, Nancy Boland, of your wife and Martha Albert, here in 1866? A I seen her here, yes sir.

Q In the Cherokee Nation? A Yes, sir.

Q Is she living now? A Who is that?

Q The mother, Nancy Boland? A Oh no, she died in '66.

Q Where was she buried? A Buried on this side the river there somewhere.

Q In the Cherokee Nation? A Yes, sir.

Q Did you see the father, Charles Boland I believe was his name? A Yes, sir.

Q In '66 here in the Cherokee Nation? A Yes, sir.

Q Is he alive now? A No, sir, he is dead.

Q When did he die? A He died in '72.

Q Where was he buried? A He is buried on Lees Creek.

Q In the Cherokee Nation? A Yes, sir.

Mr. Hastings: On whose place is Nancy Boland, the mother of Martha Albert and also of your wife, buried; who owns that place now?

A She was buried at what was called the Jack Campbell graveyard, my wife.

Q This Nancy Boland, where is she buried? A She is buried I think at Mrs. Franklin's graveyard.

Q Do you know it? A That is where I was told she was buried.

Q What time did she die? A She died in '66.

Q Spring, summer or fall; before you married or after? A Just before I married.

Q Did you ever see her? A Seen her many a time.

Q In Texas? A No sir, never seen her in Texas.

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Mr. Hastings: Notice is hereby served on the attorney

In the case of [redacted] and the referred cases, that the Petition [redacted] Attorney is hereby directed to [redacted] of Policy, the [redacted] Rules of Evidence as to the [redacted] pleading and [redacted] hearings.

Dated: [redacted] and into effect on said date [redacted] Petitioner [redacted] in this case at once.

Commencement [redacted] hearings will be fixed as the following Cherokee Freedmen cases: D-42, D-148, D-164, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-160, D-162, D-163.

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Bruce G. Jones, being duly sworn, says that he stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce G. Jones

Sworn to and subscribed before me this the 15th of September, 1901.

[redacted]

Commissioner.

File with case of Henry Albert, et al., C.F.-D.#102.

Supl. C.F.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 17, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen, introduced on the part of the Cherokee Nation.

APPEARANCES:
W. W. Hastings, Attorney for Cherokee Nation;
A. S. McRea, Attorney for applicants.

J. W. HUGHES, being duly sworn, testified as follows on part of the Cherokee Nation. BY MR. HASTINGS:

Q What is your name? A J. W. Hughes.
Q Post office? A Ramey.
Q What is your age? A 53.
Q Are you a citizen of the Cherokee Nation? A Well my wife and children are, I wasn't married according to the Cherokee laws.
Q When were you married? A I were marri ed in '69, July, '69.
Q Where did you live that year after you were married? A I lived in the Indian Territory on Joe Purdue's place on Webber creek, in a mile and a half or two mile beyond Big Lees creek.
Q That is in Sequoyah district? A Yes, sir.
Q And about how far from Fort Smith, Arkansas? A Well, accordi ng to the line straight through, about eight miles.
Q Do you know Colly Albert, a colored man? A Yes, sir, I was acquainted with him there.
Q Were you acquainted with his wife, Martha Albert? A Yes, sir.
Q Did you know Martha Albert's father? A Yes, sir, that is what they claimed to be her father.
Q Well, what was his name? A His name was Boldan, I could not tell you what his given name was. He claimed his name was Boldan.
Q Well, he was recognized there as the father of Martha Albert?
A Yes, sir.
Q Did you know Martha Albert's sister, Jennie Barnes?
A Yes, sir, I was well acquaint ed with them, lived in a half mile of them about four years.
Q Did these children do any work for you in these early days, '69 or '70? A Well, in the year of '70 when I was living there on the place they were living a quarter or half a mile below me, I rented a place from Joe Purdue and they were living joining that place, and I hired them to chop cotton for me and also to pcik cotton and work; and do some other work making rails and fixing fence, and I worked there with them two or three years; they worked for me.
Q Did you ever have any talk, or hear any members of this family make any statement as to where they come from and their whereabouts prior to that time? A I have heard Boldan and his daughter, Colly Albert's wife, I never have heard Colly speak anything concerning it as I remember at this time.
Q Well, from Boldan or Colly's wife, Albert? A I heard Boldan-

Mr. McRea: I object to anything Boldan said.

Commission: Note the objection and answer the question.

A I heard him saying he was in Texas & he claimed himself to be part Cherokee, if I mistake not, and that he was not a slave; he claimed that he had not any his wife and children--spoke to me he had two children--and they were sold out of here and was deprived to take by somebody, and I don't remember just who he said carried them away, but the best I remember about it that he had two children, Martha and Jennie, two girls, if I mistake not, as near as I can possibly think of it not at the present, and that he went along for his childrens' sake was what I seemed to understand from his talk.

and that he still lived there until the war closed and moved back, but I never was acquainted with him until '69 or '70.
Q Well, did he say when they went to Texas? A No, sir, I don't remember.
Q Well, as to the war, or before the war? A It must have been before the war.
Q Did he say that his wife and children were sold? A I think he did, I won't be positive about that, but I think he did. I remember one thing he told me, he was mighty jokey and working for me there picking cotton and chopping cotton and talking about his ups and downs down there in Texas, and what makes me think that you know, I asked him you come from down here in Texas and he spoke about his wife and children being sold out, and if I mistake not, he told me before the war they were sold out, I won't be positibe about that, but it seems to me that he did, and then at the close of the war, or after the war a while, he come back, but I don't remember anything about the time, date; I never was acquaint ed with him until '69, we made a crop there that year and now come me to get acquainted with him is what I say, I had rented that place of Joe Purdue's on the creek and we made a crop there that year and I made a crop there in '70.
Q Well, did you ever hear Martha Albert say anything about her whereabouts, where she came from? Well she claimed, if I understand it, she claimed that she come from Texas.
Q Do you remember whether you ever heard Jennie Banres saw anything about where she come from? A I never heard Jennie Barnes say anything about it, she was not about our house, but these others they worked for me a great deal.
Q Do you remember whether Boldan made any statement as to who his wife formerly belonged to up here in this country before the war?
A I just don't remember.
Mr. McRea: I object to that.
Commission. Your objection will be noted.
A It seems t o me that she was a whitmire, I won't be positive about that now
MR. McREA: Mr. Hughes, you say your first acquaintance with Martha Albert and her family was in '69 or '70? A First acquaintance was '69, and in the fall of '69.
Q You knew nothing of them before that A No, sir, I did not know them before '69, I could not tell you just what time of the year, but it must to have been, the best knowledge I have about it now, was in '69, and what makes me think so I was married in '69, in July.
Q When was the last time you saw Martha Albert? A I suppose it must have been two or three years ago the last time I remember seeing her, two or three years ago.
Q Did you ever give testimony in this matter before?
A I never have, never was called on.
Commission: This testimony will be made a part of the record in the following cases: D.#42, D.#146, D.#182, D.#99, D.#100, D.#101, D.#102, D.#105, D.#104, D.#106, D.#114, D.#150, D.#151, D.#152.

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J. O. Reason, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.
Subscribed and sworn to before me this September [illegible], 1901.

[signature]

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, April 27, 1906.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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It appears from the records of the Commission that on the 11 day of January, 1904, the Commission rendered a decision in the above case, denying all the applicants therein, which decision of the Commission was approved by the Secretary of the Interior on June 21, 1904. It further appears that on March 25, 1905, this application was remanded by the Secretary of the Interior for further hearing.

Now on this, the 27th day of April, 1906, the applicants appeared in person and by their attorneys, Neal & London. The Cherokee Nation represented by Bell, Rastings & Davenport.

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Witness for applicants.

A. J. Alberty, being duly sworn, testified as follows:

MR. NEAL:

Q. What is your name? A. A. J. Alberty.
Q. Where do you live? A. Near Stilwell.
Q. How long have you lived in the Cherokee Nation? A. I was born there.
Q. How old are you? A. About 40 years old.
Q. You are a Cherokee by blood? A. Yes sir.
Q. Were you acquainted with Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him before the war? A. I guess a couple of miles.
Q. Were you acquainted with his slaves? A. Yes sir.
Q. Do you remember anything about his selling some slaves down Arkansas some time before the war? A. Yes sir.
Q. To whom did he sell these slaves? A. I was by the name of Bellington.
Q. Do you know whether there was a slave named Henry sold at that time? A. I think so.
Q. Do you know this applicant? A. Yes sir.
Q. Did you know her before the war? A. Yes sir.

Q. To whom did she belong previous to the Rebellion? A. Johnson Whitmire.
Q. Was he a Cherokee Indian? A. Yes sir.
Q. Was she sold by Whitmire previous to the Rebellion? A. Yes sir, I think she was.
Q. Do you mean this applicant? A. No sir.
Q. Did he have two slaves by the name of Martha? A. Yes sir, one was called Big Martha and the other little Martha.
Q. Which one was sold? A. Big Martha was sold.
Q. Was this one little Martha? A. Yes sir.
Q. Was she sold? A. No sir, the other one was sold to Dillingham.
Q. Do you know who took her out of the Cherokee Nation when the war broke out? A. This one?
Q. Yes? A. I think it was Cornelius Wright.
Q. Was he the boss who took the Whitmire niggers out? A. Yes sir.
Q. Did you, at any time during the war or at the close of the war, see this applicant anywhere, and if so, where? A. After the close of the war I was down there in the Choctaw Nation on Red River, and I learned from the Choctaws that there were a lot of refugees there. I looked out for them, and found some of the Whitmire slaves.
Q. Was that in the Choctaw Nation? A. Yes sir.
Q. When was it? A. I think, to the best of my knowledge, that it was in the fall of '65.
Q. Do you know of your own knowledge when she returned to the Cherokee Nation? A. No sir, I don't.
Q. What was this woman's mother's name? A. She went by the name of Nancy.
Q. What was the name of the other Martha Whitmire's mother? A. I think her name was Dicy.
Q. Her name was Dicy Whitmire before she was sold by Whitmire? A. Yes sir.
Q. Was her name Dicy Whitmire or Dicy Shepherd? A. They always went by the name of their master.

MR. HASTINGS:

Q. When is your birthday? A. I think it was about '43, but I aint right sure about it.
Q. You have never had a birthday since? A. No sir.
Q. You didn't have one last year? A. Yes, my birthday comes around, I guess.
Q. When was it? A. In August of '43, I think it was.
Q. But you are about 60 years old? A. Yes sir.
Q. Do you remember about the year that Dicy, the mother of Martha, was sold to Dillingham? A. It was two or three years before the war.
Q. Who else was sold at the time Dicy was sold to Dillingham? A. There were two or three children.
Q. What were their names? A. One of them was called Martha.
Q. Where did you live at the time? A. Right up above Whitmire's up in Going Snake District.
Q. Watt Whitmire lived there with his father didn't he? A. If he did he was very young.
Q. You say it was only three or four years before the war? A. Well, I don't know his age.
Q. Who did you get a letter from about a week ago to hunt up testimony in this case? A. I didn't get one from anybody.

Q. Did you ever get one from anybody with reference to hunting up testimony in this case? A. I saw Mr. Rogers.
Q. What Mr. Rogers? A. That man over there behind Mr. Neal.
Q. What interest did he have in the case? A. I couldn't tell you. He just asked me to go over there and see if I could find anybody that knew these people.
Q. Who did you go to ask? A. Mrs. Susie Walkiggstick.
Q. What interest did you have in going around over the neighborhood asking people if they knew about the people in this case? A. They had asked me to do it as a favor.
Q. Did you have any interest in the case? A. No sir.
Q. How many slaves did Johnson Whitmire have when the war came up? A. I don't know --- several.
Q. Let's have the names of some of them? A. One was called Dicy, One Nancy, Emma, Rachel. I believe that is all I know the names of. There were several more, but I don't remember their names.
Q. How far did Jack Alberty live from Johnson Whitmire? A. About 8 miles.
Q. How far did Jeff Tik-nee-sky live from Johnson Whitmire? A. About three or four miles.
Q. Do you swear that Johnson Whitmire owned this slave and her mother when the war came up? A. Of course he owned them.
Q. You will swear that? A. Of course I will.
Q. And he owned her mother at that time? A. Yes sir.
Q. Was she very old? A. Not very.
Q. Did she have any more children? A. I don't know. I wasn't that well acquainted with her. I was over there a good deal, but I didn't know about her business.
Q. Don't you know whether she had any other children besides this Martha? A. I don't know.
Q. Didn't she have one elder than Martha? A. I don't know.
Q. And didn't she have two younger than Martha? A. I don't know
Q. But you knew Nancy and Martha? A. Yes sir, but I met them out on Red River after peace was made, and that is how I knewed so much about them.
Q. You didn't know that she had a brother or any sisters? A. She had some brothers I guess.
Q. What were their names? A. One went by the name of Nelson, one was Aaron, and one was Lewis.
Q. Who did they belong to? A. I think they were kinder in partnership between Johnson Whitmire and George Whitmire.
Q. Did you know the father of Johnson and George Whitmire? A. No sir.
Q. He died long before the war, didn't he? A. I guess so. I never knew him at all.
Q. When did Dillingham get Dicy? A. I don't know about that.
Q. Who took this applicant and her mother south? A. Cornelius Wright.
Q. Is that Cale Wright's father? A. Yes sir.
Q. Then Cale Wright would know about that? A. I guess he would.
Q. How do you know they went south with Cornelius Wright? A. They told me so.
Q. How old was this applicant when the war came up? A. I could not tell you. I was about 15 years old, and she wasn't as large as me.
Q. Was she five years old? A. I don't know.
Q. Was she three? A. I don't know.
Q. Was she two? A. I have no idea about her age.
Q. Do you mean to tell this Commission under oath that you knew this particular girl and yet can't tell whether she was 15 or two years of age? A. She was over two.

Q. What is your best judgment, if you are going to tell the truth? A. I guess she was 13 or 14 years old.
Q. You say she went south with Cornelius Wright? A. Yes sir.
Q. Did Cale go with his father? A. I don't know whether he did or not.
Q. Weren't you in the neighborhood? A. No sir, I was a soldier.
Q. Who was the reputed father of this applicant? A. I never knew him.
Q. Did you ever know of a free nigger by the name of Charley Rowland? A. No sir.
Q. He didn't live around there? A. He might have, but I didn't know him.
Q. He didn't go over with Dillingham? A. I don't know.
Q. You would have known it if he had? A. I might not have seen them when they left, but just heard of it.
Q. You know that Dicey went off with Dillingham? A. Yes sir.
Q. and she had a child by the name of Martha? A. Yes sir.
Q. And you swear that this Nancy and her child Martha were living there with Johnson Whitmire in Going Snake District when the war came up? A. Yes sir.
Q. And yet, you do not know how old she was? A. I guess she was 13 or 14 years old.
Q. How long was it immediately before the war that you saw this child at Johnson Whitmire's? A. I was around there several times, and I don't know just when was the last time.
Q. When was the last time you were at Johnson Whitmire's before the war. A. I couldn't tell you that.
Q. You must tell us what is your best judgment. You are under oath now? A. In those days I didn't keep any account of my whereabouts. I was a young man and didn't keep any account.
Q. Were you in the country when the war came up? A. Yes sir.
Q. How long before the war came up was it that you were at Johnson Whitmire's? A. Just a short time.
Q. How long was it before the war that you saw Nancy at Johnson Whitmire's? A. I couldn't tell you.
Q. Was it ten years? A. It might have been.
Q. It might have been 15 years? A. It might have been.
Q. You are not going to be positive on that point? A. No sir.
Q. It might have been as much as four or five years before the war that you last saw Nancy and this child at Johnson Whitmire's? A. It might have been a year or six months.
Q. When you were at Jeff Tik-nee-sky's you didn't know anything about these people? A. Yes I did.
Q. Did you tell him that you knew them -- that you knew this applicant's mother? A. Yes sir.
Q. Did you tell Jeff what you have told on this stand? A. I told him that I knew of one being named Nancy, and I told him the other one, I told him of the one that Dillingham took out -- that that one was called Dicy and her daughter was called Martha.

MR. NEAL:

Q. Did you go into the army when the war first broke out? A. Yes sir.
Q. Were you around there until you went off to soldiering? A. Yes sir.
Q. Then you were in that neighborhood until the war broke out? A. Yes sir.
Q. In your cross examination you told Mr. Hastings that it might have been 10 or 15 years or six months that you lived within two miles of Johnson Whitmire and didn't go down there. Do you mean that you lived there that long and didn't go about his

place? A. Yes sir.
Q. Then you don't know whether you stayed there five years before the war or not? A. No, I couldn't tell you how long it was. I was over there now and then.
Q. Every four five years or what? A. Maybe every two or three weeks.
Q. Were you over there every two or three weeks before the war broke out? A. Yes sir, maybe it would be a month.
Q. Do you mean to say that before the war broke out you were ever there every three or four weeks or every four or five years? A. It was a short time.
Q. Were you ever there every week or two or every year or two? A. Every week or two.
Q. Then you said you didn't know how long it was, you meant that you didn't know how many days it was before you went to the army? A. Yes sir.
Q. Did you see Nancy within a month or six weeks before you went away? A. Yes sir, I think so. It has been a long time ago and a man can't remember all of these things. Lots of things have slipped my memory.

MR. HASTINGS:

Q. Wasn't Watt Whitmire, being a son of Johnson Whitmire, in a little better position to know what slaves his father had than you were? A. I guess he would. He knew them better than I would for he was with them every day.

COMMISSION:

Q. When were you last at Johnson Whitmire's before the war broke out? A. I couldn't tell you exactly.
Q. What is your best judgment? A. It might have been two or three weeks or a month.
Q. Was it within a short time before the war broke out? A. Yes sir.
Q. Do you state now as a positive fact that when you were there the last time, that you saw this applicant there? A. Yes sir.
Q. The last time you were at Johnson Whitmire's before the war she was there? Do you state that as a fact, now? A. Yes sir, she was there, but she was never taken out of there.
Q. Well, she was there or else she was not? A. Yes sir, she was there, but she never was sold out.
Q. Were any of the other slaves there? A. Yes sir.
Q. How often have you seen this witness since the war? A. Just one time -- then I saw her yesterday or the day before. I saw her out on Red River before '65.
Q. Since '65 up to a couple of days ago you haven't seen her at all? A. No sir.

(Witness identifies his signature attached to an affidavit which is shown him.)

Q. Are you willing to swear now, Mr. Alberty, that this woman, whom you haven't seen for forty years is the same woman that you saw at Johnson Whitmire's just before the war? A. Yes sir, I saw her out on Red River in '65, and she is the same one.
Q. And you haven't seen her since until a few days ago? No sir, I haven't.
Q. In January of this year was your attention drawn to the fact

about some Martha Albert --- about four months ago? A. Not that I know of.

Q. Do you remember this paper that I shewed you a while ago? A. Yes sir.

Q. Did you read that paper before you signed it? A. Yes sir.

Q. Four months ago you swore before Mr. Rogers, a Notary Public, that you had known this woman all her life time, and now you state that from the time you saw her down on Red River, in '65, until a few days ago you didn't see her at all? A. I couldn't see her all the time.

Q. It is a fact that you had not seen her since '65 until a few days ago? A. Yes sir, I hadn't.

Q. Prior to that time you had signed this affidavit, hadn't you? A. Yes sir.

(Reference is made to an affidavit signed by the witness in the case of this applicant, signed January 10, 1905, before H. L. Rogers, Notary Public, and which is a part of the petition for a rehearing, addressed to the Department of the Interior and to the Honorable Commissioner of Indian Affairs.)

MR. NEAL:

I have one other witness, Martha Williams, who is the Martha that was sold by Johnson Whitmire to Dillingham. She lives at Marlton, and we sent a man down after her, and this morning I got a message stating that she is sick, and that a doctor's certificate has been procured. As soon as she is able to travel I would like to bring her up here and take her testimony? The testimony of this witness is important, because she is the Martha that belonged to Johnson Whitmire and who was sold out to Dillingham.

WITNESS EXCUSED.

Martha Albert recalled for additional cross examination.

MR. HASTINGS:

Q. What is your name? A. Martha Albert now.

Q. What was your father's name? A. Charley Rowland.

Q. What was your mother's name? A. Nancy, but she was called Nannie when she was young.

Q How old are you? A. I think I am about 60 years old, but I don't know exactly. I am not educated and can't tell my age exactly.

Q. Were you married before the war? A. No sir, I was just a little girl.

Q. Were you married during the war? A. About the last year of the war.

Q. Where? A. On Red River.

Q. Who did you go south to Red River with? A. With Cornelius Wright's daughters.

Q. Who took them? A. Cornelius Wright took them, and there was another lot went along. We all went together, but I was so small that I didn't pay much attention.

Q. Did you know any of Cornelius Wright's folks? A. Yes sir, I knowed Alf Wright, and Aunt Jinnie, and Aunt Dorcas.

Q. Did Cornelius Wright have any children? A. Yes sir.

Q. What were their names? A. I can't tell you, for it has been a long time ago, and I can't remember their names.

Q. You can't recall the name of any one he had when the war came up? A. I can remember them, but I can't remember their names.
Q. You can't remember the names of any of them that went south with you? A. No sir.
Q. Where did Cornelius Wright live when the war came up, and about when you started south? A. On the other side of Barren Fork.
Q. On which side of Barren Fork was that? A. On the north side.
Q. How far from Barren Fork? A. I didn't go out there and measure it, Mr. Hastings, I was too young.
Q. What was Cornelius Wright's wife's name? A. Her name was Sarah, I think.
Q. Was she living when the war came up? A. It seems to me like she was dead.
Q. How long had she been dead when the war came up? A. You must recollect that I was a child and don't remember lots of things. You must give me a chance the same as anybody else. You folks didn't give us niggers no education so we could know and remember things like that.
Q. About how long before the war did Sarah Wright die? A. I don't know.
Q. Will you swear that she didn't go south with Cornelius Wright? A. I don't know.
Q. You are sure her name was Sarah? A. I said I thought it was. What did us niggers know about that. All we could call them was Mistress, and most always that was all we knowed about their names.
Q. What was Cornelius Wright's childrens names that went south? A. I don't know.
Q. You didn't have to call them Master and Mistress did you? A. Sometimes we did, and then it has been so long ago that I have raised a family myself since then.
Q. What was Johnson Whitmire's wife's name? A. She was named Tempie.
Q. Was she the wife that was living with him when the war came up? A. I think she was, but I wouldn't be positive.
Q. Was you their slave? A. Yes sir, and he had plenty of slaves besides me.
Q. How many children did Johnson Whitmire and his wife, Tempie, have? A. I will tell you the truth, and I wouldn't swear a lie to get on this roll. I don't know their names -- none but one. I knowed Watt, and that is the only one.
Q. You know him because you heard me call his name, and because he was a witness against you in this case. How old was Watt when the war came up? A. He was a good sized boy, but I was the largest.
Q. If you were a child with them and Johnson Whitmire had some more children, why don't you remember their names? A. I just tell you about that. If you had been raised up a slave in the backwoods like us you would not know your playmates' names.
Q. The truth of the business is, you weren't there? A. Yes sir, I was right there.
Q. Did he have a brother names George Whitmire? A. Yes sir.
Q. What children did George Whitmire have? A. He didn't live right there.
Q. How far did he live from Johnson Whitmire? A. I don't know. I know he lived in the country somewhere.
Q. About how far? A. I don't know.
Q. You never were at George Whitmire's? A. I belonged to Johnson Whitmire.
Q. You never were at George Whitmire's? A. No sir.

Q. You don't know whether he had any children or not? A. I think he did.
Q. You don't know any of Johnson's children but Watt, and you did not know him until he testified against you? A. Yes sir, I knowed him before.
Q. But you never knew any of the rest of them, did you? A. I don't know.
Q. Where did Johnson Whitmire live when the war came up? A. He lived up in Going Snake District.
Q. Near what town? A. Tahlequah.
Q. About how far from Tahlequah? A. I don't know.
Q. Your best judgment? A. I didn't have no judgment about it.
Q. You weren't there, were you? A. I was born and raised right there on the old Whitmire place.
Q. How far is it from Tahlequah? A. I don't know.
Q. Was it as much as two miles? A. I never have measured it.
Q. Was it a mile and a half -- what is your best judgment? A. It might have been a mile and a half or five miles.
Q. Is five miles your best judgment? A. My best judgment is that I don't know.
Q. Is five miles your best judgment? A. I don't know how far it was.
Q. On what side of Barren Fork did he live? A. On the north side.
Q. How far did he live from the creek? A. I don't know that. He didn't live so powerful fur though.
Q. Was it five miles? A. No, I don't think it was that fur.
Q. Right when the war came up how far did Johnson Whitmire live from Barren Fork? A. I guess his old house is sitting there right now, on the north side of Barren Fork.
Q. How far from the creek? A. I couldn't answer lessen I know.
Q. I want to know whether it was a short distance, or how far? A. If I had been a young woman I might have been able to tell you.
Q. How old were you? A. I must have been four or five years old.
Q. And yet, you were married the last year of the war? A. I was 13 or 14 years old when I married.
Q. What became of your mother? A. She died.
Q. Where did she die? A. Down in Sequoyah.
Q. Did your father go south with you? A. He didn't go with us but he come.
Q. You remember seeing him around Johnson Wright's before you went? A. Yes sir, but his home was on Pea Vine.
Q. What kind of a house did Johnson Whitmire live in? A. I think it was a big log house.
Q. Are you certain about that? A. No sir, I won't be certain.
Q. Did he live on the hill or in the valley? A. On the side of the hill.
Q. And you were four or five years old? A. I suppose I was about that old.
Q. You were born in '43 and left in '47? A. I don't know. You ask me too tight questions. If I was sold I would say so.
Q. How many slaves did Johnson Whitmire have? I mean when the war came up? A. He had old mount Temple, Artie, Mose, Celia, Mary, Nancy and me.
Q. Did Celia have any children? A. No sir.
Q. Did Temple? A. She had two.
Q. Were they older or younger than you? A. Older.
Q. Did they have any about your age? A. No sir.
Q. Did Mary have any children? A. Yes sir.
Q. What were their names? A. One was named Sook and one was named Tom.

Q. You don't know how far from Barren Fork Johnson Whitmire lived, though? A. No sir.
Q. You didn't know any of his children but Watt? A. I did know them, but I have forgot their names.
Q. You didn't know any of Cornelius Wright's children's names? A. Nos sir.
Q. Q. You do not know the names of any of George Whitmire's children? A. No sir, we didn't belong to George.

COMMISSION:

Q. You have some children, haven't you, that you applied for? A. Yes sir.
Q. Elijah and Ida are two of them? A. Yes sir.
Q. Who is the father of these children? A. Colly Albert.
Q. He was a state man, wasn't he? A. Yes sir. Old man Bushyhead raised him, but he didn't belong to him.
Q. How many times have you been married? A. Just the one time.
Q. What was your husband's name? A. Colly Albert.
Q. He doesn't claim any rights as a Cherokee Freedman? A. No sir.
Q. You have a child called Henry? A. Yes sir.
Q. Has he got some children? A. Yes sir.
Q. What are their names? A. Harry, Raymond, and Louie.
Q. Who is the mother of those children? A. Florence.
Q. She is a state woman? A. Yes sir.
Q. She doesn't claim any rights as a Cherokee Freedman? A. No sir
Q. You have a girl called Lillie White? A. Yes sir.
Q. She has some children? A. Yes sir.
Q. Who was the father of those children? A. Henry White.
Q. He is a state man? A. Yes sir.
Q. Have you a child called Nancy Walkam? A. Yes sir.
Q. Has she any children? A. Yes sir.
Q. Their father doesn't claim any rights as a Cherokee Freedman? A. No sir.
Q. Have you a daughter named Malinda? A. Yes sir.
Q. Has she any children? A. Yes sir, six.
Q. Does the father of those children claim any rights as a Cherokee Freedman? A. No sir.
Q. Are they all living? A. Malinda is dead, but her children are all living.
Q. What relation is Jennie Barnes to you? A. She is my sister.
Q. A full sister? A. Yes sir.
Q. Did you have the same father and mother? A. Yes sir.
Q. Is Robert Barnes Jennie Barnes' son? A. Yes sir.
Q. The father of Robert was a state man? A. Yes sir.
Q. Jennie Barnes had a daughter called Lula Khalla? A. Yes sir.
Q. And she has two children? A. Yes sir.
Q. What are their names? A. Sarah French and Fred E. Khalla.
Q. Was the father of Sarah French a state man? A. Yes sir.
Q. What about the father of Fred? A. He was a state man.
Q. Who was the father of R-430? A. He was a state man too.
Q. He is dead, isn't he? A. Yes sir. A. Yes sir.
Q. John Barnes is a son of Jennie Barnes, too? A. Yes sir.
Q. His father was a state man? A. Yes sir.
Q. The mother of Cassie and John is a state woman? A. Yes sir.
Q. Sarah Brown has got a child called Maggie Williams? A. Yes sir.
Q. What is its father's name? A. Marcus Williams.
Q. He is a state man? A. Yes sir.
Q. Jennie Barnes had a daughter named Maggie, and Maggie had a son named George L. Bell. Who was the father of this child? A. George Smith, or Bell.
Q. Is he a state man? A. No sir.

Q. [illegible]e was denied as a Cherokee Freedman? A. Yes sir.

WITNESS EXCUSED.

Witnesses for the Nation.

Watt Whitmire, being duly sworn, testified as follows:

MR HASTINGS:

Q. What is your name? A. Watt Whitmire.
Q. What is your post office? A. Westville.
Q. What is your age? A. 53.
Q. Are you a Cherokee by blood? A. Yes sir.
Q. What was your father's name? A. Johnson Whitmire.
Q. What was your mother's name? A. Charlotte.
Q. Was your mother living when the war came up? A. No sir.
Q. How long had she died before the war? A. I don't recollect. I was just an infant when she died. I think she died about ten years before the war.
Q. Had your father remarried when the war came up? A. Yes sir.
Q. What was his wife's name then? A. Temple.
Q. Did you have any brothers and sisters living when the war came on? A. Yes sir. I had one full brother by the name of William, older than me, and then I had some half brothers, names George and Ellis, and a sister named Charlotte.
Q. Do you know this applicant that goes by the name of Martha Albert? A. If I ever saw her before I don't know it.
Q. Did your father own some colored people when the war came up? A. Yes sir.
Q. Did he own one called Nancy when the war came up? A. No sir.
Q. Did your father own this colored applicant, who claims that she is the daughter of Nancy, when the war came up? A. There was no Nancy on the place.
Q. Did your father own this applicant? A. No sir, she wasn't on the place.
Q. Were you living with your father when the war came up? A. Yes sir.
Q. How far were you living from Barren Fork? A. Right at two miles.
Q. On which side of the creek? A. South side.
Q. Did you ever live on the north side of Barren Fork? A. No sir.
Q. Do you know Andy Alberty, whose post office is Stilwell? A. Yes sir.
Q. He has just testified upon the stand that your father owned a nigger slave by the name of Nancy and this applicant, who was the child of Nancy when the war came up. Was that true? A. No sir, he never owned no woman by the name of Nancy.
Q. How far did Andy Alberty live from your father when the war came up? A. As near as I can guess it, it was 7 or 8 miles.
Q. What kind of a house did your father live in? A. A double log house.
Q. You say your own mother was dead? A. Yes sir.
Q. Was your stepmother living when the war came up? A. Yes sir.
Q. What became of your father's slaves? A. When father went north we left the women folks all at home. The men had all gone north before we left home. Me and my brother, George, were the last ones to leave the place, and we left all the women folks on the place, and after we left they all went north.

Q. None that you owned went south? A. Not one.
Q. Where did you go during the war? A. Down on Red River on the Choctaw side.
Q. Did you know Cornelius Wright? A. Yes sir.
Q. Did you know his son, Cale? A. Yes sir.
Q. How far did they live from you? A. Some five or six miles.
Q. On what side of Barren Fork? A. On the southeast side from us.
Q. Did you see them down on Red River during the war? A. Yes sir.
Q. Did they have some slaves down there? A. Yes sir.
Q. Did they have a woman by the name of Nancy? A. If they did I don't know it.
Q. Did you ever see this applicant down there? A. No sir.
Q. Did you ever see her anywhere before? A. No sir, this is the first time I ever saw her.
Q. How long were you all and Cornelius Wright's people together in the Choctaw Nation? A. I don't know. We moved away and left them there. We moved there in the early fall and left early the next spring, and we left Cornelius Wright's folks living there.
Q. They were related to you? A. Yes sir.
Q. You know that Cornelius Wright didn't have any slave of your father's by the name of Nancy, down there? A. No sir.
Q. Did you ever know the alleged father of this applicant who she said went by the name of Charley Bowland? A. No sir.
Q. Was he in your neighborhood before the war? A. I never heard of him.
Q. Did you see him down on Red River during the war? A. No sir.

MR. NEAL:

Q. You say you and your brother went off and left the women folks there? A. Yes sir.
Q. You mean the slaves? A. Yes sir.
Q. You also said that they all went north? A. Yes sir.
Q. Do you knowwhere they went? A. I don't know only what they told me. After the war they told me they went to Fort Scott. One of the men told me that.
Q. You don't know of your own personal knowledge, where they went? A. No sir, I just have their word.
Q. You say that one of the men told you? A. Yes sir, Dick and Moss both told me that the women folks were all in Fort Scott.
Q. You said the men folks all went north? A. Yes sir, they went north first -- before we left.
Q. All you knew about where the women folks went is what Dick and Moss told you, and they left before you did? A. Yes sir.
Q. You say your father didn't own any slave by the name of Nancy? A. No sir.
Q. Did he own one by the name of Nannie? A. Yes sir, there was a little girl by the name of Nannie.
Q. How old do you say you are? A. 53.
Q. That would make you how old when the war broke out? A. Between 8 and 10.
Q. You were acquainted with all of your father's slaves, were you? A. Yes sir.
Q. Knew all of the children? A. Yes sir.
Q. How many children did Rachel have? A. 3 or 4 -- I don't know just exactly whether it was 3 or 4.
Q. How many children did Sookie have? A. There was Charlette, Lisa, Toby, and Mary.
Q. There was a slave there named Frenie? A. Yes sir, but I have forgot which woman was her mother.

Q. How many children did Fronie have? A. One.
Q. Of your knowledge, you don't know where your father's slaves went? A. Not only what they told me. They told me they went north.
Q. You never have seen any of the women folks since then? A. Not since the war.
Q. You don't know where they are now, do you? A. Not for certain. I never have been right to their houses.
Q. You never have spoken to one of the negro women that belonged to your father, since the war? A. No sir.
Q. The only slaves of your father's that you have seen are Moss and Dick? A. Yes sir.
Q. How many slaves did your father have when the war broke out? A. I would have to count them up.
Q. About how many? A. I guess there were 18 or 20, children and all.
Q. You have named four children of Rachel's --- A. As well as I recollect, I said there were that many.
Q. Five of Sookie's A. Yes sir.
Q. And one of Fronie's? A. Yes sir.
Q. How many more children were there? A. There was one by the name of Charlotte that had one or two children I think.
Q. Do you think that, being only 9 or 10 years old, you would recognize a woman 50 or 60 years old who was a girl at the outbreak of the war? A. I guess not.
Q. Then you don't know anything about Martha Albert -- anything about who she is, or anything about her? A. No sir.
Q. If she belonged to your father you don't know it? A. No sir.

MR. HASTINGS:

Q. You know your father didn't have a grown woman, with children, by the name of Nancy when the war came up? A. No sir, he didn't.

COMMISSION:

Q. You have testified in this case before? A. Yes sir.
Q. Are you the Watt Whitmire that testified at Fort Gibson in 1901? A. Yes sir.
Q. Do you know this man, Dillingham? A. No sir, I have heard of him frequently.
Q. Did he live in your neighborhood? A. I think not. I have heard my father speak of him.
Q. You do not know how near he lived to your home, do you? A. No sir, I know the place they said he lived on.
Q. You know this Andy Alberty that testified here awhile ago? A. Yes sir.
Q. Did you know him before the war? A. No sir.
Q. When was the first time you ever knew him? A. Since the war I got acquainted with him.
Q. You don't know whether he was in the habit of visiting your father's house or not? A. No sir.
Q. Your mother's name was Lottie? A. Charlotte.
Q. You belonged to the second marriage? A. No, the first.

MR. NEAL:

Q. How long before the war was it that your father married Temple? A. I don't recollect just when it was. I was a boy, up and running around, I guess two or three or four years old. It was anyway, three or four years before the war.
Q. You were about 9 or 10 when the war broke out? A. Yes sir.

MR. HASTINGS:

Q. Was there any other Johnson Whitmire living around there before the war? A. No sir.

COMMISSION:

Q. Do you know what year it was that you went to Red River? A. No sir, I don't.
Q. What is your best judgment as to what year it was? A. It would have to be a round about guess. I guess it was the second year of the war.
Q. Do you remember distinctly about going to the Choctaw Nation? A. Yes sir.
Q. You remember the trip down there, and the people you met down there? A. Yes sir.

WITNESS EXCUSED.

Cale Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Cale Wright.
Q. Where do you live? A. Tahlequah.
Q. How old are you? A. I am 69.
Q. What was your father's name? A. Cornelius Wright.
Q. Were you living with your father when the war came up? A. Yes sir.
Q. Where? A. About 3 or 4 miles west of Dutch Mills, on the Cherokee side.
Q. What District? A. Going Snake.
Q. How far from Barren Fork? A. About two and a half miles, I guess.
Q. Where did your father go during the war? A. South.
Q. Did you go with him? A. I didn't exactly start with him, but I got with him at Fort Smith when he was on the way.
Q. Did you continue on the trip with him? A. Yes sir.
Q. Where did you go to? A. The first place we stopped at was Armstrong's Academy in the Choctaw Nation, then we moved from there down to 10 miles south of Doaksville, near Red River.
Q. Do you know this applicant, Martha Albert? A. No.
Q. She has testified that she and her mother, Nancy went south with your father during the war, and that her mother, Nancy, belonged to Johnson Whitmire, as well as herself, at the beginning of the war? Is that True? Did a Nancy Whitmire, who had one or two children, go south with your father? A. They were not with him when I came up with him.
Q. Did they have a Nancy Whitmire anywhere on that trip? A. No sir.
Q. Were you ever about Johnson Whitmire's place before the war? A. Yes sir, I boarded there and went to school two sessions.
Q. And you lived in his neighborhood? A. Yes sir, within five miles.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a slave by the name of Nancy who had some children when the war came up? A. No sir,. I never heard of that name while I was there going to school.
Q. You lived in the same neighborhood? A. Yes sir.
Q. You are related to Johnson Whitmire? A. I suppose we were distantly related, but I don't know how much.
Q. You do not know the degree of relationship? A. No sir.

Q. Did you ever see this applicant down south after the war or during the war? A. I am just looking at her. Let me talk to her some and see.
Q. Are you satisfied, from the conversation that you have had with her, that she was with your father down south? A. No, she could not have been.
Q. Did your knew this Andy Alberty? A. Yes sir.
Q. How far did he live from Johnson Whitmire before the war? A. It must have been 8 miles, across the mountain.
Q. You swear positively that you father didnot have a woman by the name of Nancy, and her child, that belonged to Johnson Whitmire, down on Red River during the war? A. No sir.

Applicant to witness --- Was Arthur with you? A. No.
Q. Was Rose? A. Yes, there was a Rose -- Lucindy's daughter.
Q. Was Jinnie with you? A. Jinnie died in '61.

MR. HASTINGS:

Q. You know that no Nancy Whitmire went south with your father? A. No sir.

MR. NEAL:

Q. You said just now that you judge from your conversation with the applicant, that she couldn't have been with your father down there? A. No sir, she couldn't.
Q. The reason that you say she was not with your father is because she doesn't seem to know enough about the people? A. That is it.
Q. Upon that you base your judgment? A. Yes sir.
Q. There were a good many slaves that went with your father down there? A. Yes sir, several.
Q. Did any of the Whitmire niggers go with your father? A. No. The Whitmire's went out there themselves and we all went to ourselves, and at last we all get into the same neighborhood before we started back.
Q. You didn't go out the Territory at all? A. No, we stopped on the north side of the river in the Choctaw Nation.
Q. You say that you boarded at Johnson Whitmire's and went to school, and you say he had no slave named Nancy -- name some of his slaves --- A. You call them off.
Q. I want you to call them off? A. He had Hannah, Myra, Fronie, Rachel, Ibby, Mary, and there might have been some young ones, but these are the older ones.
Q. Didn't he have one named Jane? A. Not that I know of.
Q. Didn't he have one named Mattie? A. No.
Q. Didn't he have one named Nannie? A. Well, I don't know, but if he did she must have been mighty small.
Q. Didn't he have one named Sookie? A. Yes, there was one named Sookie.
Q. Do you know the names of any of the men? A. Yes, there was Dick, Mose, Mike, Frank, and Mark.
Q. What was Johnson Whitmire's wife's name when the war came up? A. Her name was Temple.
Q. Were you acquainted with his first wife? A. No, she was dead long before I could remember her.
Q. How old were you when you boarded there? A. It was along in '58. I was a good big chap.
Q. You remember the names of all of these slaves by having boarded there? A. Yes sir.
Q. How far did you live from there? A. About 8 miles, I reckon. In our country we had what we called bridle ways that were

nearer, but it was about 6 miles around.

MR. HASTINGS:

Q. Did you mean in the year '50 or between '50 and '60? A. Yes sir, that is it — between '50 and '60.
Q. About how long before the war? A. I couldn't tell that. The war broke out in '61, and it must have been three or four years before the war.
Q. Were you there frequently besides boarding there? A. Yes sir.

MR. NEAL:

Q. You said when you were south on Red River that the Whitmire folks got into the same neighborhood? A. Yes sir.
Q. And some of the slaves were there? A. Yes sir.
Q. Old man Johnson Whitmire didn't carry out any slaves? A. I think George had a slave or two.
Q. You say that none of Johnson Whitmire's slaves were there? A. No, they all went north.

COMMISSION:

Q. Have you ever seen this woman before, to your knowledge? A. No sir, I don't know anything about her.
Q. How far do you live from Melvin? A. I live up to Tahlequah, and I don't know just how far it is.
Q. Do you know any of these applicants — any of this woman's children? A. No sir.

WITNESS EXCUSED.

J. W. Alberty, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. J. W. Alberty.
Q. What is your post office? A. Westville.
Q. How old are you? A. Well sir, I will be 71 years old the 26th day of July.
Q. This is the case of Martha Albert, in which you have given testimony before? A. Yes sir.
Q. You knew Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. Six or seven miles.
Q. You testified about the sale of some slaves to a man by the name of Dillingham? A. Yes sir.
Q. About when did he sell them to Dillingham? A. It was either in '47 or '48.
Q. Do you know this applicant here? A. No sir.
Q. She has testified that her mother was named Nancy and that her father was named Charley Rowland. Did you know the Nancy, the alleged wife of Charley Rowland? A. Yes sir.
Q. Who did she belong to? A. Old man Dillingham moved the Texas and took this family with him.
Q. To whom did she previously belong? A. To Johnson Whitmire.
Q. And Dillingham acquired her from Johnson Whitmire in the year of 1844 or 1846? A. Yes sir.
Q. Are you certain that her name was Nancy? A. Yes sir.
Q. What became of Charley Rowland? A. He went with Dillingham.
Q. Do you know whether Nancy had some children? A. She had two or three.
Q. You don't know whether this applicant was one of them or not? A. No sir.

Q. Did Johnson Whitmire have a grown slave by the name of Nancy when the war came up? A. No sir, not that I know of.
Q. You were familiar with him? A. Yes sir.
Q. Are you prepared to say that Charley Rowland was not in that country when the war came up? A. Yes sir.
Q. Do you know Andy Alberty? A. Yes sir.
Q. Is he a relative of yours? A. Yes sir.
Q. Where did he live before the war? A. He lived right close to Oak Grove school house.
Q. How far from Johnson Whitmire's? A. Between 7 and 8 miles.
Q. Then Nancy, the wife of Charley Rowland, was taken south? A. Yes sir.
Q. What was the citizenship of Dillingham? A. He wasn't no citizen at all, he was just a white man.
Q. Well, he was a United States citizen, A. Yes sir.
Q. Where did he live in '49 or '50? A. Before he went to Texas he lived in Arkansas.

MR. NEAL:

Q. You lived closer to Dillingham that you did to Johnson Whitmire didn't you? A. Yes sir.
Q. You were better acquainted with Dillingham's slaves than you were with Johnson Whitmire's? A. Yes sir.
Q. You knew more about this woman after Dillingham bought her than you did when she belonged to Johnson Whitmire? A. Yes sir.

WITNESS EXCUSED.

Jeff Catcher (Tik-nee-sky), being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Jeff Catcher.
Q. What is your post office? A. Stilwell.
Q. How old are you? A. I was 65 the 15th day of last month.
Q. Are you a Cherokee citizen? A. Yes sir.
Q. You are also known as Jeff Tik-nee-sky? A. Yes sir, that is my Cherokee name.
Q. Where did you live before the war? A. In Going Snake District on Pea Vine.
Q. Close to where you live now? A. About 300 yards west of where I live now.
Q. Did you know Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. It was about three quarters of a mile, I reckon, maybe a leetle over.
Q. Were you a soldier in the Army? A. Yes sir.
Q. You were about grown when the war came up? A. Yes sir.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman by the name of Nancy, who had some children, when the war came up? A. No sir, I don't recollect one by that name.
Q. Were you frequently at his house? A. Pretty near all the time. Once a week anyhow. I was there pretty much all the time.
Q. Do you know this applicant, who gives her name as Martha Albert? A. No sir.
Q. Did you ever see her before? A. No sir.
Q. Did you know a white man that lived across the line by the name of Dillingham before the war? A. No, I never saw him, but I

have heard him talked of a good deal.

Q. You were too small to remember him? A. Yes sir, but I have heard of him.

Q. You don't know whether he bought some slaves of Johnson Whitmire or not? A. I don't know. He didn't after I got big enough to recollect.

Q. Did Johnson Whitmire, when the war came up, have a woman by the name of Nancy? A. No sir.

Q. What army were you in? A. The Federal army.

Q. Do you know Andy Alberty? He just testified here awhile ago? A. Yes sir.

Q. How far did he live from Johnson Whitmire? A. Between 7 and 8 miles.

Q. Did you know a free colored man in that country by the name of Charley Rowland? A. I have heard of him, but I don't recollect him.

Q. He wasn't there just before the war? A. No sir.

MR. NEAL:

Q. You say that you don't remember a woman named Nancy that belonged to Johnson Whitmire? A. No sir.

Q. You don't mean to say that he didn't have one by that name, but that you just don't remember her? A. If he had one it must have been a small child, for I knew all the old ones. I think I can name all the old ones.

Q. Name them? A. The old women that I knew was Myra, Ray, Jockie, Hannah, Rache', Fronie, Mary, Charlette, and the balance were small and I don't recollect their names.

MR. HASTINGS:

Q. Was Andy Alberty ever to see you lately to see about this case? A. Yes sir, last Sunday.

Q. What did he say to you? A. He asked me if I knew of Mr. Whitmire having a woman by the name of Nancy?

Q. What did he say about it? A. He didn't say that he knew anything about it. He just wanted to find somebody that knew them.

Q. Did he say that he knew one at that time by the name of Nancy? A. He didn't say whether he did or not? He just wanted to find somebody that did know her. I told him I didn't think Johnson Whitmire owned any nigger by that name.

Q. That is the same Andy Alberty that you saw out t ere in the hall who has just testified here? A. Yes sir.

MR. NEAL:

Q. As soon as Mr Alberty told you that he wanted to get witnesses who knew this woman who did you go and tell about it? A. I told him that there was an old woman up there, Susie Walkingstick, and that if anybody would know about it she would for she was older than I was. I said, for my part, I didn't know anything about it. Afterwards, I saw him and told him that what I knew was not in his favor, but will go against him, for I was there and knew all about his niggers.

Q. You sent him around to see Susie Walkingstick, and told him that if he owned one by that name it was before you could remember? A. Yes sir.

Q. And then you chased out to see if they wanted witnesses for the Nation? A. No sir.

[illegible]:

Q. How big a place did Johnson Whitmire have? A. About 75 acres in cultivation.
Q. About how many slaves did he have at the beginning of the war? A. He must have had 15 or 20.
Q. Whatthat the only place he had in the Cherokee Nation? A. Yes sir.
Q. Did he have a plantation anywhere else? A. Nothing only a cattle ranch down about Webbers Falls. He and his brother George had a ranch together. They both owned slaves.
Q. He didn't have any female niggers down at the ranch? A. No sir.
Q. You are positive that those are the only two places he had? A. Yes sir.

WITNESS EXCUSED.

Charlotte Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charlotte Wright.
Q. What is your post office? A. Christie.
Q. How old are you? A. 58.
Q. What was your maiden name? A. Whitmire.
Q. Who was your father? A. George Whitmire.
Q. What relation was he to Johnson Whitmire? A. A brother.
Q. Where did you live before the war? A. I lived on Barren Fork. West of the Barren Fork station and east of Christie.
Q. How far from where you are living now ? A. About a mile and a half.
Q. You have lived there all your life? A. Except when I was south during the war.
Q. Did you go south? A. Yes sir, we were gone four years.
Q. Where did you go? A. To Red River — near Denham, only we were on the Choctaw side.
Q. Did you know Cornelius Wright before the war? A. Yes sir.
Q. Did you see him down on Red River? A. Yes sir.
Q. Do you know Cale Wright? A. Yes sir.
Q. You saw these people down south during the war? A. Yes sir, we got to be neighbors down there.
Q. Did Johnson Whitmire have some slaves before the war? A. Yes sir.
Q. Do you know this applicant here? A. I don't recognize her.
Q. Did Johnson Whitmire have a grown woman slave by the name of Nancy when the war came up? A. I don't remember her.
Q. Was there a free colored man in the neighborhood, by the name of Charley Rowland, when the war came up? A. I never heard of it.
Q. This applicant gives her mother's name as Nancy and her father's name as Charley Rowland? A. I never knew them.
Q. Do you state that Johnson Whitmire had any slave by the name of Nancy, who had some children, when the war came up? A. If hardid I don't know it.
Q. He was your uncle? A. Yes sir.
Q. Were you frequently at his house? A. Yes sir.
Q. How far did your father live from him? A. I guess it was 5 or 6 miles.
Q. You lived in the same neighborhood? A. Yes sir.
Q. And you were frequently at your uncle's place? A. Yes sir.
Q. Would you stay any length of time A. As long as a week.
Q. You knew his family and slaves? A. Yes sir.

Q. They never had one by the name of Nancy that you knew of? A. No sir.
Q. Did you see any slaves down south with Cornelius Wright, and among them one named Nancy who claimed to belong to your uncle Johnson before the war? A. No sir, none of his slaves went south that I know of. They all left him.
Q. You didn't see any down there that claimed to have belonged to him? A. Nos sir.
Q. You do not remember to have ever seen this applicant before? A. No sir.
Q.

MR. NEAL:

Q. You have not seen any of Johnson Whitmire's female slaves since the war, have you? A. No sir.
Q. You probably wouldn't remember a girl that was 4 or 5 years old? A. I think I would recognize her. I could be mistaken, but I think I would recognize her.
Q. How old were you when the war broke out? A. I was 14 years old whenwe had to leave home.
Q. You say that if Johnson Whitmire had a slave by the name of Nancy you don't know anything about it? A. No sir.
Q. You don't know that he didn't have any one by that name, but you just don't know about it? A. I never saw one by thatname on the place, and I don't think he had one by that name. I don't recollect anything about it, and never heard anything about it.
Q. You don't know positively that he didn't have one by that name? A. No sir, he didn't have one by that name that I knew of. He didn't have one at home, and I don't think he had any away from home. I never heard of it if he did. But I know there was no one on the place by that name.

WITNESS EXCUSED.

Charles Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charles Whitmire.
Q. What is your post office? A. Procter.
Q. How old are you? A. 56 I reckon.
Q. Are you younger than your sister Mrs. Wright? A. Yes sir.
Q. She was your sister? A. Yes sir, she was always recognized as my sister.
Q. You are the son of George Whitmire? A. Yes sir.
Q. Johnson Whitmire was your uncle? A. Yes sir.
Q. Do you remember Johnson Whitmire before the war? A. Yes sir.
Q. About how old were you when the war came up? A. I couldn't tell you -- 12 or 14 I guess.
Q. Were you about Johnson Whitmire's frequently? A. Yes sir, I stayed there a right smart and went to school from his house.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman slave who had some children, by the name of Nancy, when the war came up? A. Not that I remember.
Q. Well, if he had had one that was old enough to be, and was the mother of some children would you have known it? A. Yes sir, I think I knowed all of the older ones.
Q. You don't know one by the name of Nancy? A. No sir.
Q. Do you know this applicant here? A. No sir.
Q. Did you ever see her before. A. Not that I remember.
Q. Did you ever know a free colored person by the name of Charley

Rowland in that country? A. No sir.
Q. Then of course you never knew his wife, Nancy? A. No sir.
Q. Did you say that you stayed at Johnson Whitmire's and went to school? A. Yes sir.
Q. Do you know Johnson Whitmire's wife and family? A. Yes sir.
Q. Is Watt one of the children? A. Yes sir.
Q. Where did you go during the war? A. I went south to Red River.
Q. Did you know Cornelius Wright? A. Yes sir.
Q. Did you see him down there? A. Yes sir.
Q. Was he Cale Wright's father? A. Yes sir.
Q. Did he carry any of Johnson Whitmire's slaves down south with him? A. No sir.
Q. It has been sworn that he took some of Johnson Whitmire's slaves and among them was this woman, Nancy, and this applicant. Is that true? A. If he did, he didn't have them when we got to where they were.
Q. You were not old enough to know a white man by the name of Dillingham, were you? A. No sir.

MR. NEAL:

Q. How old did you say you are? A. 56, if I am not mistaken.
Q. You are older than your sister? A. No sir.
Q. Who else was boarding down there and going to school? A. Nobody but me and his boy went to school. Sometimes aunt Temple had two sisters that stayed there and went to school.
Q. When were you there? A. I don't know.
Q. Were you there off and on for four or five years before the war? A. I don't know.
Q. Did you stay there more than one year? A. I went from there for two or three sessions.
Q. You never happened to be there when anybody else was boarding there? A. I was there when aunt Temple's sisters were there. I don't remember any body else.
Q. How many years before the war was it? A. I am not able to tell you what year it was. I stayed at home some, and then I didn't get to go to school but very little.
Q. Your cousin, Cale, boarded down there and went to school, didn't he? A. I couldn't say whether he did or not. If he went to school, from there when I did I don't remember it.
Q. You said that you were of the opinion that Johnson Whitmire had no slave by the name of Nancy who was old enough to have children at that time? A. No sir.
Q. If he did, you don't remember it? A. No sir. I don't remember any of the folks on the place calling one by that name.

MR. HASTINGS:

Q. If there had been one there by that name would you have known it? A. Yes sir.

MR. NEAL:

Q. You would remember it all these years would you? A. I don't know, but I think I would. I remember the names of all of the older ones.

COMMISSION:

Q. Where was this school? A. On Barren Fork, on Red River.

Q. How far from Johnson Whitmire's ? A. About a mile and a half
Q. Who had this school? A. An old missionary lady taught the school. I don'r remember her name.
Q. Was it a kind of a convent school? A. It was kept up by the Cherokee Nation. It was a public school.
Q. How far away was the nearest school to it? A. I couldn't say positively just how far away. I expect it was 6 miles. I wouldn't be positive , but I expect it was that far.
Q. Was Johnson Whitmire in the habit of taking boarders to attend school? A. Yes sir, and so did my father.
Q. You were convenient to the school, and the people from the neighboring vicinity sent their children over there to board and go to school. A. Yes sir.

MR. NEAL:

Q. You say your father kept boarders? A. Yes sir.
Q. How did it happen that you didn't board at home? A. My uncle had a boy, and had nobody to go to school with him, so I was sent over to go to school with this boy.
Q. How near did your father live to the school? A. About four miles, but he built a house about three quarters of a mile from the schoolhouse where he kept the teacher and boarders.

WITNESS EXCUSED.

(Mr. Neal -- I would like that the case be held open until I can introduce one other witness, the Martha Williams who was actually sold to Dillingham, and if I can get her, I will bring Susie Walkingstick.

By consent and agreement, this case is continued to May 11, 1905, at 1:30 o'clock, P. M.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the prodeedings had in the above entitled cause on the 27th day of April, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

(Signed) Eula Jeanes Branson.

Subscribed and sworn to before me this the 29th day of April, 1905.

(Signed) Myron White
Notary Public

KITED

FILED
MAY 18 1905
COMMISSION TO FIVE TRIBES.

Cherokee Freedmen-R-418 to 481, inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Muskogee, Indian Territory, May 11, 1906.

---

In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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Neal & London, attorneys for applicants.

Bell, Hastings & Davenport, attorneys for the Cherokee Nation.

C O M M I S S I O N.

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On this, the 11th. day of May, this cause coming on to be heard, the applicants appear neither in person nor by attorney. The Cherokee Nation, represented by W. W. Hastings, introduces the following testimony:

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Aaron Whitmire, being duly sworn, testified as follows on behalf of the Cherokee Nation:

MR HASTINGS:

Q. Your name is Aaron Whitmire? A. Yes sir.
Q. You are a freedman citizen of the Cherokee Nation? A. Yes sir.
Q. How old are you? A. About 60.
Q. To whom did you belong when the war came up? A. George Whitmire.
Q. What relation was George to Johnson Whitmire? A. They were brothers.
Q. How far apart did they live? A. About four miles, when the war come up.
Q. In what District? A. Going Snake.
Q. Did they use to live together? A. Yes sir, till they married.
Q. Were you familiar with Johnson Whitmire's slaves? A. Yes sir
Q. Did you ever know a slave that he had there by the name of Nancy and Charley Markland, a free colored man, for her husband? A. Yes sir.
Q. What became of Nancy? A. She was sold to a man by the name of Billingham.
Q. What was Billingham's citizenship? A. A citizen of the United States.

Q. Where did he live? A. Right on the line of -- or close to the line of Arkansas.
Q. Did this Nancy have any children when she was sold? A. I think she had one, is all I recollect.
Q. What was that child's name? A. Martha.
Q. Now, I refer to the Nancy who had a husband by the name of Charley Bowland, a free colored man? A. Yes sir, and so do I.
Q. About how long before the war was it that she was sold to Dillingham? A. As near as I can recollect, it must have been 8 or 10 years or more.
Q. Did Dillingham continue to live over there in Arkansas till the war come up? A. No sir.
Q. What became of him? A. He went to Texas before the war come up.
Q. Aaron, it has been alleged here that Johnson Whitmire had another Martha whose mother was Dicy, and that Dicy and that Martha were sold instead of this Martha and Nancy. Did he have another woman by the name of Dicy? A. Yes sir.
Q. Did he have her when the war come up? A. No sir, she was dead.
Q. Did he sell her to Dillingham? A. No sir.
Q. When did she die? A. Before the war, and before Nancy was sold.
Q. Did Dicy have any children? A. One.
Q. What was its name? A. Cinthy.
Q. What became of Cinthy? A. She was sold to a man by the name of Russell who lived in Arkansas.
Q. About how long before the war was she sold? A. 6 or 8 years.
Q. Did Johnson Whitmire have any other Dicy? A. No sir, never did.
Q. Did you ever hear of his selling a Dicy to Dillingham? A. No sir.
Q. Did you ever hear of his selling a little girl by the name of Martha, besides this one? A. No sir, this was the only Martha on the place.
Q. Did he have a Martha when the war came up? A. No sir.
Q. Did you ever see the applicant who gives her name as Martha Albert, who is the wife of Collie Albert? A. I haven't seen her since she was sold.
Q. Did Charley Bowland go to Texas? A. Yes sir.
Q. Was he in the Going Snake country when the war came up? A. No sir. I never did see him after he went to Texas.
Q. What became of Johnson Whitmire's slaves? Did any of them go to Texas? A. No sir.
Q. What became of his women slaves? A. They went north.
Q. Who took them north? A. They went off with the soldiers.
Q. How long did you remain up there at the old Whitmire place? A. Till '64.
Q. Then you went to Kansas? A. Yes sir.
Q. Had all of Johnson Whitmire's slaves gone off north with the soldiers? A. All but two, and they were with me. They were two very old women -- Amy and Myra.
Q. Had Cornelius Wright gone south? A. Yes sir.
Q. He took his slaves with him? A. Yes sir.
Q. Did Johnson Whitmire have any other Nancy or Nannie other than the one he sold to Dillingham? A. Yes sir, he had a little girl called Nannie.
Q. Who was her mother? A. Sookey.
Q. What was Sookey's name? A. Smith.
Q. What was her husband's name? A. Rose Smith. He is dead.
Q. Where does she live? A. Up here on Big Creek in Coowescoo-wee District.

CONCESSION.

Q. How many slaves did Johnson Whitmire have at the beginning of the war? A. He had some 20 or 25.
Q. Can you give their names? A. I could name the old ones.
Q. Give me the names? A. The first old woman was Amy, Myra, Hannah, Sookey, Kizzy, Mike, Dick, Martin, Mose, Saphronie, Rachel, Charlotte, Liza, Aby, Frank, Nannie. That is about all I can recollect.
Q. These are all the older ones? A. Yes sir.
Q. The younger ones you do not remember? A. I cannot recollect them.
Q. How many of these slaves do you know of that are living now, of these 15 or 16 you have just named? A. I don't know of but two that are living.
Q Where are they? A. Up on Big Creek.
Q. What are their names? A. Nannie Smith and Frank Whitmire.
Q. Where does Frank live? A. On Big Creek.
Q. How old a man is he? A. I don't know just how old a man he is -- right at 60 I guess.
Q Do you know Martha Williams? A. No sir.
Q. Are you positive now that at the breaking out of the war, Johnson Whitmire did not have a slave by the name of Martha? A. Yes sir.
Q. Do you know whether he had a child slave by that name? A. No sir, there was not one by the name of Martha.
Q. You know that of your own knowledge? A. Yes sir.
Q. You mentioned in your testimony about a Nancy who had a daughter called Martha, and that they were sold to Dillingham. Have you ever seen them since that time? A. I never have.
Q. Do you know who this applicant is -- have you seen her? A. I don't know that I would know Martha if I saw her.
Q. How far do you live from Fort Smith? A. I live away up near the Kansas line.
Q. Did you say you knew Charley Bowland? A. Well.
Q. Was he a free colored person? A. Yes sir.
Q. And you know that he married one of Johnson Whitmire's slaves named Nancy? A. Yes sir.
Q. You cannot be mistaken about that? A. No sir.

WITNESS EXCUSED.

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COMMISSION:

After the introduction of the above testimony by the Cherokee Nation, the attorneys for the applicants appeared, by their stenographer, Miss Sorensen, and filed with the Commission a motion for continuance.

MR. HASTINGS:

The atterneys for the Cherokee Nation object to the motion for continuance, filed in this case, for a number of reasons, to-wit:

FIRST: --- This case has been continued a number of times upon motion and at the request of the applicants;

SECOND: --- The motion for continuance is not sworn to:

THIRD: --- The motion for continuance does not set up that is expect-

ed to be proven by the said Martha Williams, but only states that she is an important witness, and does not state what is expected to be proven by her, so that the Commission can pass upon the materiality and admissability of the testimony.

FOURTH: --- Because the certificate of the attending physician is not sworn to.

COMMISSION:

The motion for continuance will be taken under advisement, and the attorneys will be notified by mail.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 11th day of May, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson.

Subscribed and sworn to before me this the 18th day of May, 1905.

Notary Public.

A. F. Mc.
D. C. L.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

---

In the matter of the application for the enrollment of Martha Albert, et al., as Cherokee freedmen, consolidating the applications of:

| | | | | |
|---|---|---|---|---|
| Martha Albert et al., | Cherokee Freedmen | | (D 42) | R 418 |
| Robert Barnes, | " | " | (D 99) | R 419 |
| Lula Knalls et al., | " | " | (D 100) | R 420 |
| Nancy Berkum et al., | " | " | (D 101) | R 425 |
| Henry Albert et al., | " | " | (D 102) | R 421 |
| John Barnes et al., | " | " | (D 103) | R 422 |
| Jerry Albert | " | " | (D 104) | R 423 |
| Lillie White et al., | " | " | (D 105) | R 424 |
| Malinda McLain et al., | " | " | (D 114) | R 426 |
| Frank Gardner | " | " | (D 146) | R 430 |
| Joshua Barnes | " | " | (D 150) | R 427 |
| Sarah Brown et al., | " | " | (D 151) | R 428 |
| Minnie Barnes | " | " | (D 152) | R 429 |
| Maggie Bell et al., | " | " | (D 182) | R 431. |

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D E C I S I O N.

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Martha Albert for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Berkum for herself and minor children, Annie and Walter Berkum; by Henry Albert for himself and minor

children, Harry and Raymond Albert, thereafter, on October 31, 1902, there was filed with the Commission an affidavit showing the birth, on June 4, 1902, of Lewey Albert, son of the applicant, Henry Albert; by John Barnes for himself and minor child, Gussie A. Barnes, thereafter, on August 20, 1902, there was filed with the Commission an affidavit showing the birth, on June 15, 1902, of John A. Barnes, son of the applicant, John Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie and Nancy White, thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on March 8, 1902, of Amos White, son of the applicant, Lillie White; by Charles McLain for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain, thereafter, on September 1, 1901, there was filed with the Commission an affidavit showing the birth, on May 17, 1901, of Mattie McLain, daughter of the applicant, Malinda McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; and by George C. Bell for his wife, Maggie Bell, thereafter, on November 7, 1901, there was filed with the Commission an affidavit showing the birth, on September 18, 1901, of George L. Bell, son of the applicant, Maggie Bell.

THE RECORDS FURTHER SHOW: That on January 11, 1904, the Commission rendered its decision herein, denying said applicants, except Mattie McLain, whose rights to enrollment through an oversight, were not considered, the right to enrollment as Cherokee freedmen, and that on June 21, 1904 (Departmental letter I.T.D. 4732-04), said decision was duly affirmed by the Department; that, thereafter, on March 25, 1905 (Departmental letter I.T.D. 1332-05), on motion of the applicants, this case was reopened by the Department, and remanded for further testimony and readjudication; and that, thereafter, on April 13, and 27, and May 11, and June 22, 1905, further proceedings in the matter of said applications were had at Muskogee, Indian Territory.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Martha Albert, claims the right to enrollment as a Cherokee freedman by virtue of her compliance with the treaty stipulations of 1866, and that all the other applicants herein claim the same right as descendants of the said Martha Albert and one Jennie Barnes, deceased, who, it is alleged, complied with said treaty stipulations of 1866.

The following points are fully established by the evidence, no attempt having been made to disprove them:

(1) That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were full sisters, and were born prior to the commencement of the rebellion.

(2) That all the other applicants herein were born since the commencement of the rebellion, are lineal descendants of the applicant, Martha Albert, and the said Jennie Barnes, deceased, and possess no rights to enrollment as Cherokee freedmen o other than as such descendants.

( The records of this office fail to show that Ruth Barnes, mother of the applicants, Gussie A. and John A. Barnes, has ever made application for enrollment as a Cherokee freedman. Her mother, Millie White, and full sister, Viola White, and full brothers, Jim H. and Harry White, were originally listed for enrollment as Cherokee freedmen on Memorandum cards Nos. 10, 13, and 14, and were later transferred to Freedmen Rejected cards Nos. 317, 320 and 321. On April 24, 1905, their applications for enrollment as Cherokee freedmen were denied by the Commission, and record forwarded to the Department.

George C. Bell, father of the minor applicant, George L. Bell, was denied enrollment as a Cherokee freedman, by the Commission, on April 20, 1904, and on May 26, 1904, -Departmental letter I.T.D. 4050-04,- the Commission's decision was approved by the Department).

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the commencement of the rebellion, but, rather, that several years prior to the commencement of said rebellion, they, together with their mother "Nancy", were sold to one Dillingham, a citizen of the United States, were removed from the Cherokee Nation, and it is further shown that they did not return to said Nation on or prior to February 11, 1867. Excepting the Wallace and Kern-Clifton Rolls, none of the applicants herein can be identified on any roll of the Cherokee Nation in the possession of this office.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 ( 30 Stat., 495), Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A.

Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Mattie McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Morris Williams, Minnie Barnes, Maggie Bell and George L. Bell, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

_____
Commissioner.

Dated at Muskogee, Indian Territory,
this _____

COPY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

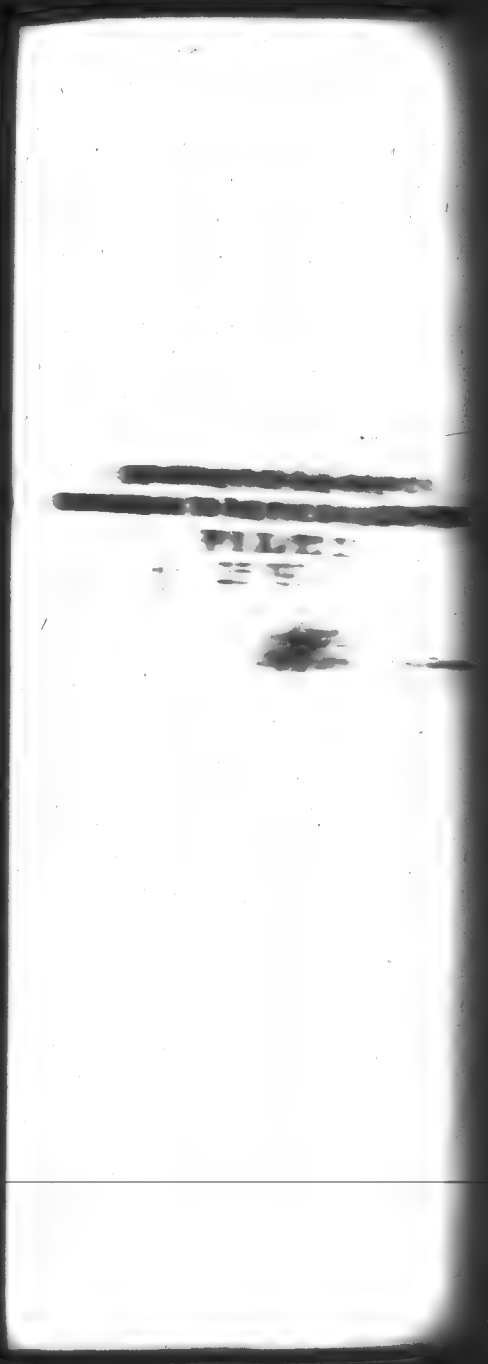
In the matter of the application of Martha Albert, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

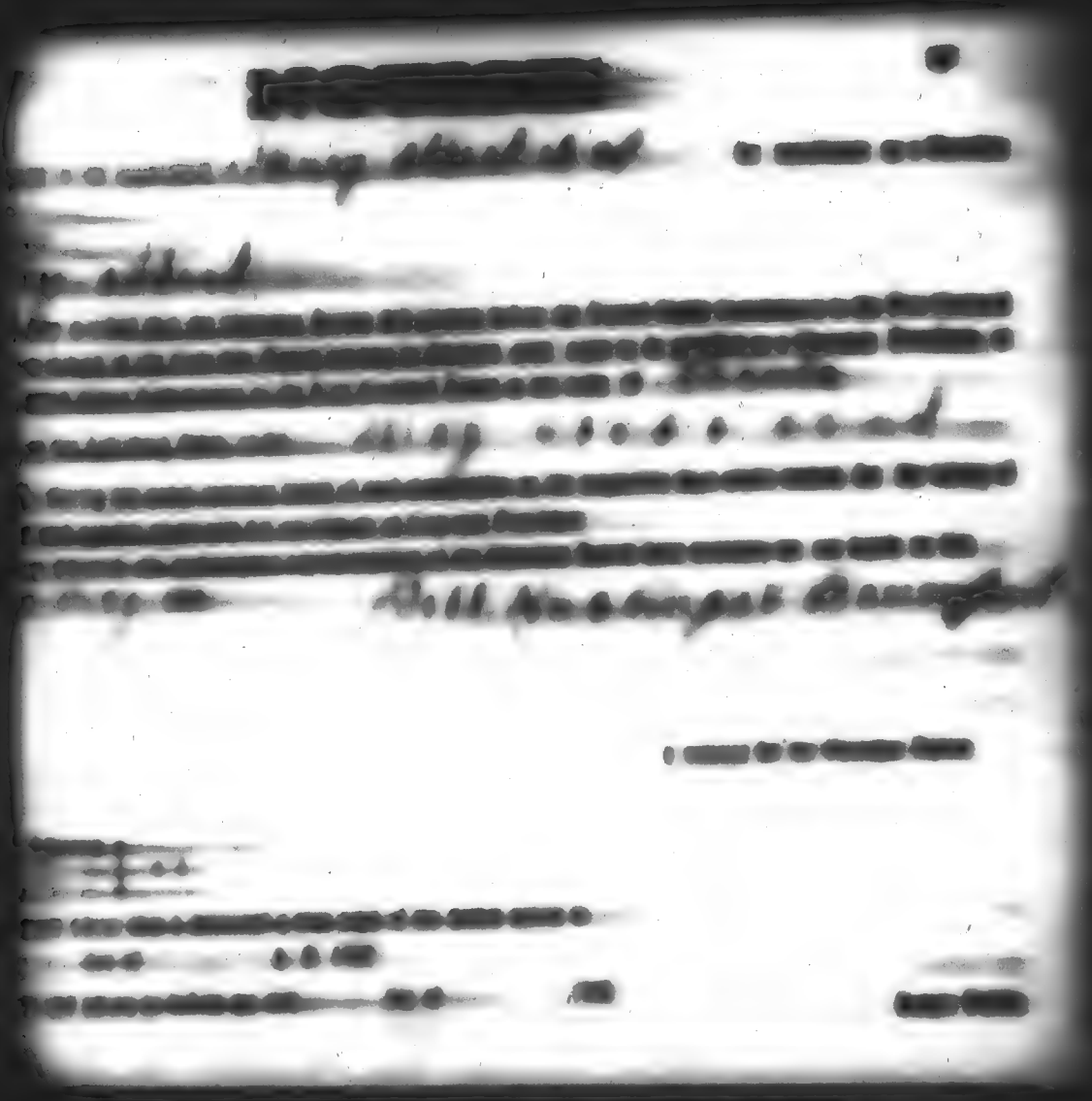
| | | |
|---|---|---|
| Martha Albert, et al., | Cherokee Freedmen | D- 42 |
| Robert Barnes, | Cherokee Freedmen | D- 89 |
| Lula Knalls, et al., | Cherokee Freedmen | D-100 |
| Nancy Berkum, et al., | Cherokee Freedmen | D-101 |
| Henry Albert, et al., | Cherokee Freedmen | D-102 |
| John Barnes, et al., | Cherokee Freedmen | D-103 |
| Jerry Albert, | Cherokee Freedmen | D-104 |
| Lillie White, et al., | Cherokee Freedmen | D-105 |
| Malinda McLain, et al., | Cherokee Freedmen | D-114 |
| Frank Gardner, | Cherokee Freedmen | D-146 |
| Joshua Barnes, | Cherokee Freedmen | D-150 |
| Sarah Brown, et al., | Cherokee Freedmen | D-151 |
| Minnie Barnes, | Cherokee Freedmen | D-152 |
| Maggie Bell, et al., | Cherokee Freedmen | D-182 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Martha Albert, for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls, for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Berkum, for herself and minor children, Annie and Walter Berkum; by Henry Albert, for himself and minor children, Harry and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes for himself and minor child, Gussie A. Barnes; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert, for himself; by Lillie White, for herself and minor children, Mattie and Bobby White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Amos White; by Charles McLain, for his wife, Malinda McLain, and minor children, Samuel, Ella, Christina, Charles, Turner and Jeanette McLain; by Frank Gardner, for himself; by Joshua Barnes, for himself; by Sarah Brown, for herself and minor child, Maggie Williams; by Minnie Barnes, for herself; by George L. Bell, for his wife, Maggie Bell; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell.

[redacted]





[redacted]

DESCRIPTION OF APPLICATION:

# CHEROKEE FREEDMEN.

Date APR 16 1901

Post Office Vian

District Lee

1. Name Henry Albert Age 29

Owner's name Citizenship

Year K.C. Page 159 No. 3939 District Lee

Parents:

Father Colly Albert Citizenship Col

Mother Martha Albert Citizenship Col

2. Name of wife Age

Owner's name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

1. Harry Albert Year Page No. Dist. 9
2. Raymond Year Page No. Dist. 1
3. Year Page No. Dist.
4. Year Page No. Dist.
5. Year Page No. Dist.
6. Year Page No. Dist.
7. Year Page No. Dist.
8. Year Page No. Dist.
9. Year Page No. Dist.
10. Year Page No. Dist.
11. Year Page No. Dist.
12. Year Page No. Dist.

Application made by Self Stenographer Van Wesse Ans

(2) Affidavits of Parentage to be filed

(3) " " "

Doubtful

COMMISSIONERS.
HENRY L. DAWES.
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, Indian Territory, May 15th, 1901.

Received of the Commission to the Five Civilized Tribes one copy of the original testimony in the matter of the application of Henry Albert et al for enrollment as Freedmen of the Cherokee Nation; one copy of the original testimony in the case of Robert Barnes, one copy of the original and one copy of the supplementary testimony in the case of Martha Albert et al; the testimony the the case of Barnes and Albert having been made a part of the record in the case of Henry Albert etal.

A S McRea

Attorney for Applicants.

CherokeeF. #D102.

Cherokee F. D-102

Muskogee, Indian Territory, January 11, 1904.

Henry Albert,

Vian, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and your three minor children, Harry, Raymond and Lewey Albert, as Cherokee Freedmen. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Enc. D-36

Register.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

A. S. McKee,

Attorney for Martha Albert et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah Grumb, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Minnie A. Barnes, John A Barnes, Jerry Albert, Lillie White, Hattie White, Nancy White, Anna White, Malinda McKeim, Samuel McKeim, Nila McKeim, Christiana McKeim, Charles McKeim, Turner McKeim, Jeanette McKeim, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior

for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Enc. D-30
Register.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lowry Albert, John Barnes, Cussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Lila McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles,

Enc. D-31

Commissioner in Charge.

Cherokee Freedmen.
D-42 et al.

Muskogee, Indian Territory, January 11, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Martha Albert et al., including the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Melinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, [illegible], Maggie [illegible], [illegible] Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

Respectfully,

T. B. Needles

Commissioner in Charge.

Through the Commissioner of Indian Affairs.

Rec. D-29.

Refer in reply to the following:

Lands 1360-1904. Copy.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 4, 1904.

In re

Application for enrollment
as Cherokee freedmen, viz:

| | | |
|---|---|---|
| Martha Albert, et al | P.O. 41 | Consolidated. |
| Robert Barnes, | P.O. 97, | |
| Lula Dowling, et al | P.O. 120 | |
| Henry Harlan, et al. | P.O. 121, | |
| Henry Albert et al, | P.O. 122, | |
| John Hammon, et al, | P.O. 123, | |
| Perry Albert, | P.O. 124, | |
| Lizzie White, et al, | P.O. 125 | |
| Malinda Reid, et al, | P.O. 126, | |
| Frank Gardner, | P.O. 127 | |
| Matilda Barnes, | P.O. 128, | |
| Sarah Irving, et al, | P.O. 129, | |
| Minnie Harris, | P.O. 130, | |
| Maggie Dell, et al. | P.O. 131, | |

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith the record of proceedings had before the Commission to the Five Civilized Tribes in the above consolidated cases of Martha Albert et al., affecting the rights of delinquent applicants for enrollment as Cherokee freedmen, the jurisdiction by law conferring being dated January 11, 1904, as

nied the application of all the applicants in the above named cases, to be enrolled as Cherokee freedmen.

The record shows that applications for enrollment as Cherokee freedmen were made to said Commission by Martha Albert for herself and minor children, [redacted] and [redacted] Albert; by Robert Barnes for himself; by Lula Knalls for herself andminor children, Sarah French and Fred E. Knalls; by Nancy Berkum for herself and minor children, Annie Berkum and Walter Berkum; by Henry Albert for himself and minor children, Harry Albert and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes for himself and minor child, Dussie A. Barnes, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie White and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Amos White; by Charles McLain forhis wife, Malinda McLain and his minor children, Samuel, Ella, Christian, Charles, Tumner and Jennetta McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown forherself and minor child, Maggie Williams; by Minnie Barnes for herself; by George C. Bell for his wife Maggie

Bell, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell. Claimants base their contention for a right to be enrolled as Cherokee freedmen upon the claim made that the principal applicant Martha Albert and her sister, Jennie Barnes, now deceased, from whom the other applicants claim descent, were at the commencement of the War of the Rebellion the slaves of one Johnson Whitmire, a Cherokee citizen, that during the war these alleged slaves, Martha Albert and Jennie Barnes went South to Red river in the Choctaw Nation where they remained until the fall of 1866 when they claim to have returned with one Ellis Harlin to the Cherokee Nation and settled with him on the Sale Barr place near Fourteen Junction. The evidence adduced shows that Johnson Whitmire and George Whitmire, brothers and Cherokee citizens, owned before the war several slaves, designated as the "Whitmire negroes". The attempt to identify Martha Albert and Jennie Barnes as one of the "Whitmire negroes" at the commencement of the war has signally failed.

Vest Whitmire, son of Johnson Whitmire, who claims to have known the names of all the slaves of his father, testifies that he had no recollection of any two female girl slaves named Martha and Jennie, and was not even recall the fact that his father ever owned a slave named Nancy Whitmire, the mother of said girls. Nancy Bell, whose maiden name was George Whitmire, brother to Johnson Whitmire, who only lived four miles distant and

knew all the colored people raised by Johnson Whitmire; testified positively that Johnson Whitmire did not own a slave named Nancy Whitmire nor a slave named Martha Whitmire. J. W. Alberty who lived in the Going Snake District, Cherokee Nation before the war and who well knew Johnson Whitmire from whom he lived a distance of ten or twelve miles, testified that the Whitmire boys, George Whitmire and Johnson Whitmire, at the time they divided up their property in 1847 sold a slave named Nancy whitmire with her whole family to a man named Dillingham who moved them with his family right across the line into Arkansas at a town called Dutch Town or Salem where he remained until he moved to Texas in 1850-1; that he knew the darkies "better after Dillingham got them than I did before" and that Dillingham only lived five miles from where witness then lived. It is evident that the principal applicant Martha Albert and her sister Jennie Barnes were living in Arkansas instead of the Choctaw Nation at the close of the war as Jennie Barnes' husband testified that he married her in November, 1866, at Fort Smith, Arkansas, where it appears Jennie Barnes was hired out and where her husband worked much of his time after marriage. Martha Albert claims to have married her husband in the Choctaw Nation during the war while her husband denies having married her until after his return to the Cherokee Nation. The death of Nancy Whitmire the mother of the principal applicant Martha Albert is shown to have occurred in 1866 but the place of her burial is not definitely shown. The belief that the principal applicant, Martha Albert was living in Arkansas and not in the Choctaw Nation as alleged by her, is further strengthened by the testimony of Mrs. Ruth Hunt

nee Ruth Harlin and Mrs. Emma Finley nee Emma Harlin, daughters of Ellis Harlin with whom it is claimed Nancy Whitmire and her two daughters, Martha and Jennie returned from the Choctaw Nation to the Cherokee Nation in November 1866. Mrs. Hunt and Mrs. Finley testify positively to the fact that their father Ellis Harlin did not return to the Cherokee Nation until February or March 1867, that no colored people returned in his company, that the first time they ever saw Martha Albert was in the "summer of 1867" when their father "went over in Arkansas somewhere towards Van Buren and hired the man to come and work", that the man's name was Albert and his wife's name was Martha, that neither the summer nor his wife ever claimed to have ever been the slaves of Johnson Whitmire whom witnesses knew before the war, nor did either claim to be Cherokee freedmen that they ever heard of, until the roll was taken at Vinita in 1896 and applicants are identified as formerly hired help. John Melton testified that Martha' Albert's husband told him "he found her at the Harlin place." If that be true and Martha Albert admits that on her return she first settled on the Cole Starr place on which Ellis Harlin lived it is evident that she did not return to the Cherokee Nation until the "summer of 1867." In view of all the facts and circumstances of this case, this office is of the opinion that the principal applicant Martha Albert and her sister Jennie Watson now deceased, of whom the other applicants claim to be descendants, were not the slaves of Cherokee citizens at the commencement of the War of the Rebellion nor were they ever actual sojourners in the Cherokee Nation at the

commencement of the rebellion and even had they been, which is denied, it is shown that they went out of the Cherokee Nation and did not return thereto prior to February 11, 1867, in contravention of the treaty of July 19, 1866, which provides:

"All freedmen who have been liberated by voluntary act of "their former owners or by law, as well as all free colored "persons who were in the countryat the commencement of the "rebellion and are now residents therein, or who may return t "within six months, and their descendents; shall have all the "rights of native Cherokees."

As the burden of proof lies upon claimants to establish their rights to recognition as Cherokee freedmen under the provisions of the treaty of July 19, 1866, and as they have failed to bring themselves within its purview, it follows that all of the aforegoing applications for enrollment as Cherokee freedmen must be denied.

We come now to the discussion of another point involved. It appears of record that the names of Martha Albert and her minor children Elijah and Ida are found on the Kerns-Clifton roll while the names of several of the descendants are found upon the Wallace roll. None of the applicants names are to be found upon the authenticated roll of 1880 nor upon the census roll of 1896.

Attorney for applicants contends that as the name of Martha Albert and her minor children, Elijah and Ida appear upon the Kerns-Clifton roll, that such fact is conclusive of their rights as Cherokee freedmen and pleads res adjudicata to any action by the Commission. Such contention cannot be maintained.

Congress by Act of June 28, 1898, Sec.21, directed the Commission to the Five Civilized Tribes as follows:

"It shall make a roll of Cherokee freedmen in strict "compliance with the decree of the Court of Claims rendered the "third day of February eighteen hundred and ninety six."

The Court in its decree of February 3, 1896, (see P.4), instructed said Commission as follows:

"The said commissioners in ascertaining the identity of "the freedmen entitled to share under the decree, shall accept "what is known as the authenticated Cherokee roll, the same "now being on file in the office of the Secretary of the Interior, "having been furnished to him and purporting to have been taken "by the Cherokee Nation in 1880 for the purpose of showing the "number of freedmen then entitled to citizenship in the said "nation under the terms of the treaty between the United States "and the Cherokee Nation hereinbefore referred to, and their "descendants, and no evidence shall be accepted by said Commission "tending to disprove the citizenship of any of the persons "whose names appear upon said roll", and supplementary thereto, Sec. 21, of the Act of June 28, 1898, states squarely the proposition that the roll of Cherokee citizens of 1880 (not including freedmen) is "the only roll intended to be confirmed by this and preceding acts of Congress", thus in effect declaring that the plea of res adjudicata can not prevail unless the name of the applicant appears upon the authenticated roll of 1880.

should be denied under the provisions of Sec. 21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is recommended that the decision of the Commission therein, dated January 11, 1904, be affirmed.

Very respectfully,

A. C. Tonner,

Acting Commissioner

GR

C

D.C. 21478-1904.
I.T.D. 4722-1904.
L R S

W.S.F.
J.P.
TMB

DEPARTMENT OF THE INTERIOR,
WASHINGTON, June 21, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

January 11, 1904, you transmitted the record in the consolidated case embracing the applications of Martha Albert et al. (I.D.-12), for enrollment as Cherokee freedmen, [redacted] your decision of the same date, rejecting the applications.

Reporting June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department affirms your decision, for the reasons stated therein.

Respectfully,

(Signed) E. A. Hitchcock,
Secretary.

1 inclosure.

Cherokee Freedmen

D-105.

Muskogee, Indian Territory, June 28, 1904.

Henry Albert,

Vian, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and three minor children, Harry, Raymond and Lewey Albert, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-42 et al.

Muskogee, Indian Territory, June 28, 1904.

A. S. McRae,

Attorney for Martha Albert, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for enrollment of Martha, Elijah, Ida, Albert; Robert Barnes; Lula Knalls, Sarah French Fred M. Knalls; Henry, Harry, Raymond, Lewey, Albert; John, Gussie A, John A., Barnes; Jerry Albert; Lillie, Mattie, Nancy, Amos, White; Malinda, Samuel, Ella, Charles, Turner, Jennetta, Christiana, McLain; Frank Gardner; Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George L., Bell; Nancy, Annie, Walter, Berkum; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

B-42 et al.

Muskogee, Indian Territory, June 28, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha, Elijah and Ida Albert; Robert Barnes; Lula Knalls, Sarah French, and Fred E. Knalls; Nancy, Annie and Walter Borkum; Henry, Harry, Raymond and Lewey Albert; John, Gussie A., and John A., Barnes; Jerry Albert; Lillie, Mattie, Nancy, and Amos White; Malinda, Samuel, Ella, Charles, Turner, Jennetta, Christiana, McLain; Frank Gardner; Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George L. Bell; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

W. C. F.
FHE.

DEPARTMENT OF THE INTERIOR,

D. C. 16475-1905.

WASHINGTON. March 25, 1905.

I. T. D. 1332-1905.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department has considered a motion filed by attorneys Neal and London, of Fort Smith, Arkansas, dated December 10, 1904, to reopen the Cherokee enrollment case of Martha Albert, et al.

January 11, 1904, you decided that the applicants in said case were not entitled to enrollment, and on June 21, 1904, your decision was approved by the Department.

The attorneys desire the case reopened in order that newly discovered evidence may be introduced to show that previous to the breaking out of the war Johnson Whitmire owned two slaves by the name of Martha; that prior to the breaking out of the war one of said slaves was sold to a man named Dillingham who lived in Arkansas; that she married a man named Williams; that the other Martha, known as "Little Martha", who is one of the applicants in the case of Martha Albert, et al, married a man named Albert who lived in the Cherokee Nation. It is claimed by said attorneys that the evidence introduced by the Cherokee

Nation at the original hearing does not apply to the applicant herein.

It appears from the motion and the affidavits submitted that the case should be reopened. The motion is hereby granted. You will so notify the applicants and their attorneys and the attorney for the Cherokee Nation, and allow a reasonable time for the introduction of additional testimony, after which you will readjudicate the case.

The motion, the record and other papers in the case are inclosed.

Respectfully,

(Signed) E. A. Hitchcock

Secretary.

6 inclosures.

COPY.

Cherokee Freedmen

R-421.

Muskogee, Indian Territory, April 8, 1905.

Henry Albert,

Vian, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of yourself, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 26, 1905 (I.T.D. 1332-1905), remanding this case for rehearing and readjudication.

You are, therefore, hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as you may desire in the matter of your said application. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED) T. B. Needles.
Commissioner in Charge.

Incl. S-52.
Register.

COPY.

Cherokee Freedman
R 418 et al.

Muskogee, Indian Territory, July 24, 1905

Neal and London,
Attorneys for Martha Albert et al.,
Fort Smith, Arkansas.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert, et al., C.F.R., 418, Robert Barnes, C.F.R. 419, Lula Knalls et al., C.F.R. 420, Nancy Berkum, et al., C.F.R. 425, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White et al., C.F.R. 424, Malinda McLain et al., C.F.R. 426, Frank Gardner, C.F.R. 430, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Neal and London--2.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED). James Bixby.

Incl. B-36

Commissioner

COPY.

Cherokee Freedman R 418 et al.

Muskogee, Indian Territory, July 24, 1905

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment as Cherokee Freedmen of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Mattie McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, including the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting said applications.

On January 11, 1904, the Commission to the Five Civilized Tribes rendered its decision denying said applicants,

Secretary--2.

excepting Mattie McLain, whose rights to enrollment were not at that time considered, and on June 21, 1904 (I.T.D. 4710-1904), said decision was affirmed by the Department. On March 28, 1906 (I.T.D. 12328-1906), this case was re-opened by the Department, and remanded for further hearing and readjudication.

Respectfully,

(SIGNED) James Bixby.
Commissioner

Through the
Commissioner of Indian Affairs.
Encl. R-22

Cherokee Freedman
R-421

COPY.

Muskogee, Indian Territory, July 24, 1905

Henry Albert,

Vian, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, denying your application for the enrollment of yourself and children, Harry, Raymond and Lewey Albert, as Cherokee freedmen. There has heretofore been furnished your attorneys, Neal and London, Fort Smith, Arkansas, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED: Tams Bixby

Encl. R- 27

Commissioner

Cherokee Freedman

R 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1905

Bell, Hastings and Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al., C.F.R. 418, Robert Barnes, C.F.R. 419, Lula Knalls et al., C.F.R. 420, Nancy Berkum et al., C.F.R. 425, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White et al., C.F.R. 424, Malinda McLain et al., C.F.R. 426, Frank Gardner, C.F.R. 430, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED) Tams Bixby

Commissioner

Encl. B-36

-COPY- 6.B.

DEPARTMENT OF THE INTERIOR, U.S.
WASHINGTON.

D.S. 53765.
I.T.D. 4758-1904,
13282-1905,
6709- "
10855- "
L.R.S.

June 2, 1906.

Commissioner to the Five Civilized Tribes,
Muskogee, Indian Territory.

Sir:

July 24, 1905, you transmitted the recorded report with your recommendation in the matter of the consolidated applications for the enrollment of Martha Albert et al., as freedmen, including your decision of even date, adverse to all the applicants.

August 12, 1905, the Acting Commissioner of Indian Affairs reporting thereon, recommended that your decision dated July 24, 1905, adverse to all the applicants named in his said letter, be approved. A copy of his letter, indicating the names of applicants affected by this decision, is inclosed.

The Department concurs in the recommendation made and your decision dated July 24, 1905, denying the applications for the enrollment of Martha Albert and others named in Indian Office letter of August 12, 1905, is hereby affirmed.

A perusal and review of both petitions filed with the

Department on September 7, 1933, by Messrs. Kline & Kilgor and Andrews, Garvan & Kohler, attorneys for moving parties therein, is hereby denied.

Respectfully,

Jesse H. Wilson,

Assistant Secretary.

1 inclosure.

COPY.

Cherokee Freedman
R 421

Muskogee, Indian Territory, June 15, 1906.

Henry Albert,

Vian, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting, among others, your application for the enrollment of yourself and children, as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion for review of your case filed September 7, 1905, is denied.

Respectfully,

DENIED.

Tams Bixby.

Commissioner.

MDP

Cherokee Freedman
R 418

COPY.

Muskogee, Indian Territory, June 18, 1906.

Blue & Bulger,
Attorneys for Martha Albert,
Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that the motion filed by you September 7, 1905 for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED).

Tams Bixby.

Commissioner.

Incl.P-17
KMP

Cherokee Freedmen R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED).

Tams Bixby.

Commissioner.

Incl.R-16
MCP

Cherokee Freedman
R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Neal & London,
Attorneys for Martha Albert,
Ft. Smith, Arkansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED).

Tams Bixby.
Commissioner.

Incl.P-18
MCP

DEPARTMENT OF THE INTERIOR,

LAND
59343-1905.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

August 12, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated July 24, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Martha Albert for herself and her minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and her minor children, Sarah French and Fred K. Knalls; by Nancy Borkum for herself and her minor children, Annie and Walter Borkum; by Henry Albert for himself and his minor children, Harry, Raymond and Lewey Albert; by John Barnes for himself and minor children, Gussie A. and John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and her minor children, Mattie, Wanny and Amos White; by Charles McClain for his wife, Malinda McClain, and his minor children, Samuel, Ella, Christiana, Charles, Turner, Jeannetta and Mattie McClain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Winnie Barnes for herself, and by George C. Bell for his wife, Maggie Bell, and his minor child George L. Bell.

July 24, 1905, the Commission decided adversely to all the applicants.

The record shows that on January 11, 1904, the Commission rendered a decision denying these applicants, except Mattie McClain inadvertently omitted, and that on June 21, 1904, the decision was affirmed by the Department; that thereafter, on March 25, 1905 (I.T.D. 2333-1905) the Department reopened and remanded the case for further testimony and readjudication.

The record further shows that the applicant, Martha Albert and Jennie Barnes, deceased, were full sisters, and were born prior to the beginning of the war of the rebellion; that all the other applicants were born since the beginning of the war, are lineal descendants of the applicant, Martha Albert and Jennie Barnes, deceased, and possess no rights to enrollment other than as such descendants.

It is further shown that the applicant, Martha Albert and Jennie Barnes, deceased, were neither the wives of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the beginning of the war of the rebellion, and that they did not return to the Cherokee Nation on or before February 11, 1867.

Excepting the Wallace and Kern-Clifton, none of the applicants is identified on any roll of the Cherokee Nation.

In view of the record the approval of the Commission's decision adverse to all of the applicants is recommended.

Very respectfully,
C. F. Larrabee,
Acting Commissioner.

M.M.M.
W.

Cher. Fr. R. 422

See Cher. Fr. R-418-19-20-21, R-423 To R-431 both inc

Cher. Fr. R. 422

FILED

APR 29 1991

Acting Chairman

To be filed in case of John Barnes, Cher. Freedman D #103.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 10,1901.

In the matter of the application of Martha Albert for the enrollment of herself and two children as Cherokee Freedmen; being sworn and examined by Commissioner Needles, she testified as follows:

Q What is your name? A Martha Albert.
Q How old are you? A About 54 or 5 years old.
Q What is your post-office address? A Melvin.
Q What district do you live in? A I live in Tahlequah District, now; but I have been living in Sequoyah.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Did you ever apply to be enrolled as a Freedman of any other tribe or nation? A No sir.
Q Have you been recognized by the Cherokee authorities as a Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A I have got two children.
Q What are the names of your children? A Elijah Albert, 19 years old. Ida Albert, 10 years old.
Q Are you married? A Yes sir.
Q What is your husband's name? A Holly Albert.
Q Is he a citizen? A Well, he has been raised by them.
Q Is he living? A Yes sir.
Q Where is he? A He is down town.
Q Were you a slave? A Yes sir.
Q What was your owner's name? A Johnson Whitmire.
Q Where were you at the beginning of the war between the Confederacy and the UnitedStates? A Goingsnake.
Q Were you taken out of the nation during the war? A Far as Red River.
Q This side or the other side of Red River? A This side.
Q When did you come back? A In '66.
Q You have been living down here ever since '66? A Yes sir,
Q What was your name before you were married? A I went by my owner's name, Martha Whitmire; I always goes by the name of Mat now.
Q Your name though is Martha? A Yes sir.
Q Have you ever lived in Cooweescoowee District? A No sir.
Q What is the reason your name aint on the roll of 1880? A I don't know; you know how ignorant people was, didn't know how to go at such business.
Q You say you were a slave of Johnson Whitmire? A Yes sir.
Q And that you came back to the Cherokee Nation in '66? A Yes sir
Q You sure it was '66? A Yes sir.
Q You think it wasn't '76? A No sir, '66
Q You wasn't here in '65? A No sir.

Examined by Cherokee Representative, James Davenport:

Q Who did you come back to the Cherokee Nation with when you came back? A With EllisHarlin.
Q Where did you go first when you came back? A I stopped right down on the Cale Starr place where the Cherokee junction is now
Q Stopped on the Arkansas side didn't you? A No sir, I didn't.
Q How long didyou live in Ft. Smith? A Never lived in Ft. Smith any.
Q How long did you stay there? A I staid there 2 years, and then went to Lee's Creek.
Q Who did you live with there? A Cherokee family there, named Allison, and Mrs Franklin and all of them.

Q Where was Hickory Starr living at that time? A In Flint.
Q You didn't go up to Flint? A No sir.
Q Well, did you go to Going Snake District? A No sir.
Q You just went to Sequoyah District and remained there? A Yes sir.

Examined by Commissioner Needles:

Q Have you got anybody here that knows you and knows you were here in '66? A Yes sir, Mandy Benton and John Melton.

JOHN MELTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A John Melton.
Q How old are you? A 64.
Q What is your post-office address? A Benge.
Q Are you a Cherokee Freedman? A Yes sir.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q You know Mattie Albert? A Yes sir.
Q Was she a slave during the war/or before the war? A I don't know.
Q When did you first know her? A About '67, early in '67; I saw her husband in '66 sometime, and had a talk with him; he said he found her at the Harlin place; I often heard talk of them being down there, but I never see them for a few months after.
Q When did you first see her? A Early in '67.
Q Early as January? A No sir.
Q Sometime in the spring? A Yes sir, along in the spring.

Examined by Cherokee Representative, James Davenport:

Q You don't remember what time in '67 you saw her? A No sir, not exactly.
Q You don't know where they were during the war? A No sir,

MANDY BENTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Mandy Benton.
Q How old are you? Mandy? A About 70.
Q What is your post-office? A Benge.
Q You are a Cherokee Freedman are you? A Yes sir.
Q You know Mattie Albert? A I have been knowing her ever since the surrender.
Q You know where she was at the close of the war between the Confederacy and the United States? A No sir, I don't think I do.
Q Where did you first get acquainted with her? A On the Harlin place.
Q What year was that? A '66.
Q Was she there in '66? A Yes sir.
Q You know whether she had been a slave or not? A Yes sir, she was a slave.
Q You know who her owner was Whitmire.

Examined by Cherokee Representative, James Davenport:

Q What makes you remember that it was in '66 when you first got acquainted with her? A Well, just by paying attention to others talking I reckon, and knowing it was that time.
Q How long after the surrender was it you got acquainted with her? A Well, really I don't know.
Q Was it two years or three years? A It might have been a year and maybe not so long; I don't remember.
Q Where was she living when you got acquainted with her? A At the Harlin place.

Q Where is the Harlin place, I don't know Mandy? A It is in Sequoyah.
Q With whom was she living at that time? A With her husband and her children.
Q How many children had she? AI don't know how many children she had.
Q How far were you living from where she was living at that time?
A I guess it's about very near two miles.living
Q You remember any of the Cherokee families in that locality where she was living? A No.
Q You don't remember anything about it except it was in '66 you got acquainted with her? A Emma Harlin was living there then I think, If I misthe not.
Q Was Cale Starr living there? A I don't know- I remember--
Q You know Cale Starr? A Yes sir. I would like to get it straight; I tell you I have had so much trouble since that time I don't remember.
Q You don't know whether it was '66 or '76? A It was '66.

Examined by Cherokee Representative, W.W.Hastings:

Q It was before the treaty was it aunty that you got acquainted with her? AI guess it was.
Q Now, aunty, you don't ~~remember~~ know anything about years do you?
A I forget them.
Q You didn't know anything about years then did you? A Oh I guess I was there; I know a little something about it.
Q What year is this? A Now I disremember.

Examined by Commissioner Needles:

Q You are pretty positve though that you saw this woman in '66?
A I sure is.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not identified thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

Kerns-Clifton Pay roll of citizens of the Cherokee Nation examined, and applicants identified thereon as follows:
page 159 #3934 Mattie Albert, Sequoyah District.
page 159 #3936 Elijah Albert Sequoyah District;
page 159 #3937 Ida Albert Sequoyah District.

Q Have these children always lived in the Cherokee Nation? A Born and raised here.

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Com'r Needles: The name of Mattie Albert ahd her children Elijah and Ida are found upon the Kerns-Clifton roll; their names do not appear upon the authenticated roll of 1880 nor the census roll of 1896; they are duly identified; now comes the Cherokee Nation, and protests against their enrollment, consequently, final judgment will be suspended as to the enrollment of said Mattie and her children and their names will be placed upon a doubtful card.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D.Green

Subscribed and sworn to before me this April 26, 1901.

Commissioner.

To be filed in case of John Barnes, Cherokee Freedman D 103

SUPPLEMENTAL: D 42.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Martha Albert et al for enrollment as Cherokee Freedmen;
Albert Johnson being sworn and examined by Commissioner Breckinridge, testified asfollows:

Q Give me your full name? A Albert Johnson.
Q How old are you?A I am 43
Q What is your post-office? A Benge.
Q In what district do you live? A Sequoyah.
Q You want to give some testimony in the case of Martha Albert and her children?A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life, with the exception of going out into the Choctaw Natin during the war.
Q At what time did you come back to the Cherokee Nation? A '65.
Q And have you lived here ever since? A Yes sir, I have been right in the Territory ever since.
Q Do you know Martha Albert? A Well, yes sir, I do to some extent
Q How far does she live from you? A She lived right by us.
Q At one time? A Yes sir.
Q When was that? A Oh that was been I reckon about 24 or 5 years ago since she lived right by us, I guess; I wont say that for certain.
Q What was her name in that day? A Well she went by Mattie Albert.
Q Do you know what her name was before it was Albert? A No sir, I couldn't say just what her name was, ~~because it was Elmore~~ because I didn't know.
Q Where did she live before that time, 24 or 5 years ago, when you and she lived close together? A I am going to tell you just like I know; I aint going to tell nothing more than that; they said she lived up on Lee's Creek; I don't know that.
Q You have no knowledge of your own? A No sir, not as to whereabouts she was living at all.
Q So of your own knowledge except for hearsay, you don't know anything more than 24 or 5 years ago, is that so? A Yes sir.
Q Your first personal acquaintance with her was 24 or 25 years ago, as near as you can place it now? A Yes sir.
Q How old were you when you first knew her? AI guess I must have been about 17 or 18 years old; I guess I was, I don't know exactly.
Q You were most a young man? A Yes sir.

Examined by Cherokee Representative, W.W.Hastings:

Q How far, Albert, did you live from Lee's Creek?A I lived 10 miles from Lee's Creek.
Q Yet you never saw her before that time? A No sir.

ANDY CROSSLAND, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Andy Crossland.
Q How old are you? A About 74.
Q What is your post-office?A McKee.
Q In what district do you live? A Illinois District.
Q You want to give testimony in the case of Martha Albert and children?A Yes sir.
Q How long have you lived in the Cherokee Nation?A I have been here all the time,born here.
Q Were you in the Cherokee Nation during the Civil war? A Yessir.
Q All the time during the war? A Yes sir, I was a soldier.
Q When did you begin soldiering?A I can't tell you; I was a soldier.

Q What command were you in? A Cherokee.
Q In the Union Army? A Home Guard.
Q Were you Home Guard on the Union side or the Confederate side?
A Confederate side.
Q Well, then, you quit soldiering of course when the war closed?
A Yes sir.
Q Did you surrender? A Yes sir.
Q Where did you surrender? A Right here at Ft. Gibson.
Q When did you first know Martha Albert? A After the war.
Q Where did you live before the war? A Down in Sequoyah District
Q Were you a slave in those days? A Yes sir.
Q To whom did you belong, did you belong to a man named Crossland? A Yes, his wife.
Q What was her husband's name? A John.
Q You were paroled right here at Ft. Gibson? A Yes sir.
Q Where did John Crossland and his wife live? A In Sequoyah District.
Q Near what town? A Close to Redland.
Q Who did Martha Albert belong to in old times; she was a slave in old times was she? A I culdn't tell you.
Q You don't know about that? A No sir.
Q You don't know then, of course, where she lived back before the war? A He used to live there in Flint.
Q Who are you talking about? A Martha.
Q You said he, you mean Martha Albert? A Yes sir.
Q You say she must have lived in Flint, but you don't know?
A No.
Q When did you first see her? A Close to Ft. Smith on Cale Starr's place; had a place close to Stonewall, and I was going down towards Van Buren and I staid all night with her.
Q How did you happen to see her? A I staid all night with her.
Q Staid all night there? A Yessir.
Q She was living on the plantation? A Yes sir, on Cale Starr's place.
Q She was a married woman then? A Yes sir.
Q You stopped at their house? A Yes sir.
Q What were you going down to Van Buren for? A Taking some cattle.
Q You had gone to work? A Yes sir.
Q How long had you been living up here before you started that trip? A I had been living all the time.
Q But after you were paroled and the war was over, you went to work? A Yes, well I stopped down at Sand Town after peace was made.
Q You were in the Home Guard? A Yes sir.
Q And after the war was over you were paroled? A Yes sir.
Q And then you went to work? A Yes sir.
Q Who did you go to work for? A Just some times hired in a job of cattle, to Van Buren.
Q How long had you been working after the war before you went down to Van Buren after the war with that lot of cattle? A Three or four years.
Q Three or four years then, after the war was over, and you had been paroled, you went down to Van Buren with a lot of cattle?
A Yes sir.
Q And on that trip you stopped at this woman's house and staid all night with her family? A Yes sir.
Q And at that time you got acquainted with her? A Yes sir.
Q That's the first time you ever saw her? A Yes sir.
Q And you have no knowledge of her before that time? A Yes sir.
Q Well you never knew her befre that time? A No sir.
Q Have you been knowing her off and on every since? A Ever since.
Q So you don't know where she was before you met her at that time?
A No sir.

ROSE ROGERS, being sworn and examined by Commissioner Breckinridge, testified as follows:

Martha Albert et al    supplemental:

Q Give me your full name? A A Rose Rogers.
Q How old are you? A I pronounce my age 56 years of age.
Q What is your post-office? A Locust Grove.
Q In what district do you live? A Saline.
Q You want to give some testimony in the case of Martha Albert and her children? A Just of her owners and where she lived.
Q How long have you lived in the Cherokee Nation? A I have been bred and born in Goingsnake District, I have been nowhere else.
Q Lived here all your life? A Yes sir, until I went south with my owners time of the war.
Q Where did you go? A Down in the Choctaw Nation.
Q You remember the first year when you went to the Choctaw Nation?
A Yes sir, just when the war broke out we went to the Choctaw Nation.
Q And you came back when the war was over? A Yes sir.
Q Who did you belong to? in those days? A Cornelius Wright.
Q Who was it Martha Albert belonged to? A She belonged to Johnson Whitmire; her mother did.
Q Did she belong to Johnson Whitmire herself? A Yes sir, she belonged to johnson Whitmire; her mother and her mother's children; I was about 11 years old.
Q How far did Johnson Whitmire live from Cornelius Wright? A Five miles, on the mouth of Barron Fork, close to Pea Vine Creek.
Q You know where Martha Albert was during the war? A No sir, I don't.
Q What do you know about her after the war? A I haven't seen her since the war until I met her here on Fourteen Mile Creek.
Q When was that? A Just last year; I saw her since she was a little girl.
Q So you haven't seen her since you went down to the Choctaw Nation during the war until you met her out here on the Creek last year? A Yes sir.
Q And that's all you know about her? A Yes sir. I know where she was bred and born on Barron Fork; she lived with johnson Whitmire; there was two brothers then, George Whitmire and Johnson Whitmire.
Q Did you see her during the war? A No sir.
Q You don't know where she was taken? A No sir, but her people went south; they was in behind, so we went ahead of them; they located some where in the Choctaw Nation, but I couldn't say where.
Q You don't know about that? A No sir.
Q Did you know her in that day, before the war? A Yes sir, we were children together; just lived five miles apart; I just wanted to identify her mother, who they belonged to; and they were not sold out; I am qualified; I want to state what I know.
Q You know she was born in the Cherokee nation and went out during the war? A Yes sir.
Q And beyond that you don't know anything except when you met her about a year ago? A Yes sir. We was raised together; gathered hazel nuts together.

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M.D.Green, being first duly sworn states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D.Green

Subscribed and sworn to before me this April 26, 1901.

C.R. Breckinridge

Commissioner.

FILED
APR 30 1901

To be filed in case of John Barnes, Cherokee Freedman D 103.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Robert Barnes for the enrollment of himself as a Cherokee Freedman; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Q Give me your full name? A Robert Barnes.
Q How old are you? A 33
Q What is your post-office? A Foreman.
Q In what district do you live? A Sequoyah.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A My youngest sister; all the children is grown but my sister.
My mother is dead; I am applying for my brothers and sisters.
Q Why don't they apply for themselves? A Well, I am putting in the case for us.
Q Are your brothers and sisters all of age? A Yes sir, all but one.
Q Since they are of age why don't they apply for themselves?
A Well they will do that.
Com'r: The law requires that unless there is some very strong reason to the contrary.
Q You have one sister under age? A Yes sir.
Q Does she live with you? A Lived with my father.
Q Where is your father? A He is at home.
Q He should apply for his child? A He don't claim any right himself.
Q Yes but he is the father, and he should apply for his child.
Q You apply then for yourself; how long have you lived in the Cherokee nation? A Always.
Q All your life? A Yes sir.
Q Give me the name of your father? A Sam Barnes.
Q He is alive? A Yes sir,
Q Give me the name of your mother? A Jennie Barnes.
Q Is she alive? A No sir, she is dead.
Q How long has she been dead? A About ten years.
Q You say your father is not a Cherokee Freedman? A No sir.
Q Was your mother a Cherokee Freedman? A Yes sir.
Q You have never lived anywhere except in the Cherokee nation?
A No sir.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

1896 census roll of citizens of the Cherokee nation examined and applicant not identified thereon.

Kerns Clifton pay roll of citizens of the Cherokee nation examined and applicant not identified thereon.

Q You don't appear to be upon any roll of the Cherokee nation?
A I am on the Wallace roll.
Q Could you have been enrolled under any other name? A No sir.
Q Has your mother lived with your father ever since they were married? A Yes sir.
Q Willie, Charley and Turner Barnes, are they your folks? A Yes.
Q How old was your mother when she died? A I think she was about 42 or 3.
Q Where was your mother born? A In Going Snake.
Q Was she a slave before the war? A Yes sir, and she was.
Q To whom did she belong? A Johnson Whitmire.
Q Where was she during the war? A I don't know sir.
Q Where were you born? A I was born in Sequoyah District.
Q Do you know where your mother was in 1880 or 1890? A They said she was living down there near Cherokee Station.

Q She was married to your father at that time? A Yes sir.

Com'r: Well, you see, so far we are without any evidence except hearsay evidence, that you have, about your mother being either a slave before the war, having been set free in the nation in any way, and about where she was during the war, and when she got back; you see you were not born until '67 or '68, according to your age, and you are not on any roll, and you had better have your father come in and apply for this child, and give testimony also in your case; he may be able to throw some light on it.

Q Is there no witness you want to bring in? A Yes sir, Mat Albert.

MARTHA ALBERT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give your name there, please? A Martha Albert.
Q How old are you? A I am about 57 or 8 years old.
Q What is your post-office? A Melvin.
Q In what district do you live? A Live in Tahlequah District.
Q You want to give some evidence here in the application of Robert Barnes don't you for enrollment? A Yes sir.
Q You have made an application for yourself and two children? A Yes sir.

Com'r: This is D 42.)

Q A trouble in your own application appeared to be to establish when you came back to the Cherokee Nation after the war? A I came back here two months before the '66 treaty went off.
Q You know Robert Barnes do you? A Yes sir.
Q How long have you known him? A I have knowed him ever since he has been born; he was my sister's child.
Q Child of your sister Jennie? A Yes sir.
Q She belonged to Johnson Whitmire? A Yes sir.
Q Were you and she taken out of the Cherokee Nation during the war? A We went to Red River in the Choctaw Nation.
Q You didn't go across the river? A No sir, we never crossed into Texas.
Q Was your sister there with you? A Yes sir.
Q And both of you belonged at that time to Johnson Whitmire did you? A Yes sir.
Q Well did she come back with you? A Yes sir.
Q Johnson Whitmire brought you both back? A No sir, my father brought us back.
Q You and your sister came back together? A Yes sir.
Q What was the father doing down there? A Well we went south.
Q Was he working down there? A Yes sir.
Q On a plantation? A Yes sir, he was a free man; he always just dug wells around for people.
Q Your father was a free man? A Yes sir.
Q But your mother was a slave? A Yes sir.
Q Did she come back with you and your sister? A Yes sir.
Q What business did you say your father did? A He dug wells and worked around for people.
Q And he brought your mother and both of you back? A Yes sir.
Q In what year did he bring you and your sister? A 1866 when I come back here.
Q What time of the year was it? A It was in the fall of the year.
Q Where did your sister locate when she came back? A She located down here close to the Cherokee Junction.
Q Were you in the same neighborhood with her? A Yes sir, right in the same yard.
Q Were you on a plantation or about the town? A I was on Cale Starr's place.
Q On a farm? A Yes sir.
Q He is not living now, Cale Starr, is he? A I don't know.

Q How many children have you? A I have got six.
Q Where was your oldest child born? A Born in Sequoyah.
Q After you got back after the war? A Yes sir.
Q How old is that child? A About 37 years old.
Q How long had you been married down in the Choctaw Nation when you got back? A We married time of the war.
Q Along towards the last of the war? A Yes sir.
Q How long had you been married when your oldest child was born?
A I couldn't go to work to tell you about that.
Q Been several years had it? A Yes sir.
Q How long had you been back here when your oldest child was born?
A She was born in '67.
Q Who attended on you at the time of the birth of that child?
A The woman who attended on me is dead, Mandy Benton's mother.
Q Some of the old people living who remember when that child was born? A No sir, none that I know of; there wasn't no colored folks in there hardly then.
Q You don't remember how long you had been back in the Cherokee Nation when that child was born? A Yes sir.
Q How long? A She was born in '67.
Q I didn't ask you what year she was born in, I asked you how long you had been in the Cherokee Nation when that child was born?
A Well, I tell you she was born the year after I come back here.
Q The next year after you got back? A Yes sir.
Q Was the child born in the spring, summer or fall? A Born in January.
Q What time of the year was it you got here? A I got here in the fall of 1866.
Q In the fall before the January this child was born?
A Yes sir.

COLLY ALBERT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Colly Albert is the way I always sign my name.
Q How old are you? A I am 61.
Q What is your post-office? A Melvin.
Q In what district do you live? A I live in Illinois District.
Q You want to give some testimony ~~in~~ in the case of Robert Barnes do you? who has applied for enrollment? A Well I can give some.
Q Well you are not here to apply for your own enrollment are you?
A No sir, not now; not at present.
Q Are you the husband of Martha Albert? A Yes sir.
(Com'r: Her case is D 42.)
Q Do you know Robert Barnes? A Yes sir.
Q How long have you known him? A I have been knowing him ever since he was born.
Q How long have you lived in the Cherokee nation? A I have been raised and born here in the Cherokee Nation.
Q Were you a slave in the old times? A Yes sir.
Q To whom did you belong? A Old Lady Bushyhead, Nancy.
Q Where were you during the war? A I was down on Red River.
Q In the Choctaw Nation? A Yes sir.
Q Where did you live before that, on Nancy Bushyhead's place?
A Yes sir.
Q In what district was that? A In Goingsnake District.
Q You married your wife, Martha down there did you on Red River?
A No sir, I married her after I come back. I lived with her but I didn't marry her until after we come back to the Cherokee Nation.
Q How long after you come back to the Cherokee Nation did it before you and she married? A About three years I guess; I joined the Church and they wouldn't let me live in the church until I married.
Q Did you and she have any children until after you were married?
A Yes sir, she had two.

Q Any of his children living? A I don't know.
Q Is his wife living? A I don't know that neither; I have been living in Sequoyah.
Q Are there any of the people who were living there on the place at that time living now? A No sir, not on that place; there wasn't no one there but us, working the farm; rented the place.
Q You and your sister were on that place? A Yes sir.
Q But there were no colored people on it ~~xx~~but just you and your people? A Yes sir.
Q Well now how many people were in your family at that time, you and your sister and who else? A Me and my sister and our husbands.
Q Was her husband then living, Sam Barnes? A Yes sir.
Q And your husband, is he living? A Yes sir.
Q Has your husband testified in your case? A No sir.
Q Why didn't you bring your husband? A He is in here somewheres.
Q Your sister's husband is not here is he? A No sir.
Q Did your husband go around the country digging wells after he got back? A My father.
Q Was he with you when you got back? A Yes sir, brought us back.
Q Did he go around the country digging wells? A No sir, he didn't dig any wells after he got back.
Q What did he do? A He farmed.
Q Was he living with you there on Mr. Starr's place? A Yes sir.
Q Your father is dead now? A Yes sir.
Q Who had farms there in that neighborhood? AOld Uncle Jack Campbell.
Q Is he alive? A No sir, he is dead.
Q Anybody else? A Yes sir, Dave Choate had a place right there joining.
Q Named Chouteau? A Named Choate, Cherokee.
Q Is he living? A I don't know.
Q Do you know anybody who is living now that was living in that neighborhood there and knew you all? A Yes sir.
Q Well give me their names? A Eliza Franklin, it ~~i~~nt Franklin now; that was her name when I knew her; her name is Eliza McCrady now.
Q Is she about the room now? A No sir, she is living down in Sequoyah; she is a Cherokee.

Examined by Cherokee Representative, W.W. Hastings:

Q Where were you married? A We married in slavery time; we married in the Cherokee nation.
Q Your husband came back with you also? A Yes sir.
Q I thought you said your father brought you back? A Well my father was the leading one brought us back.
Q Where was your sister married? A She was married here under the Cherokee laws.
Q She wasn't married down there? A No sir.
Q Her husband didn't come back with her? A No sir.
Q ~~I think~~ Where was Robert Barnes born? A Down in Sequoyah.
Q ~~[illegible]~~
Q On what place? A Right there on the Cale Starr place.
Q That's how far from Ft. Smith? A About four miles.
Q And by the river, on this side? A Yes sir.
Q You say Cale Starr was living there at the time? A No sir, old man Ellis Harlin was living there.
Q He had a family? A Yes sir.
Q One of the m named Emma? A Yes sir.
Q She was living there? A Yes sir.
Q Another one named Ruth? A That's right.
Q She was living there at that time? A Yes sir; and a boy named Joe.
Q And Joe was living there at that time? A Yes sir.
Q He knew your people now? A Yes sir.

Examined by Commissioner Brenkinridge:

Q Two before you were married? A Yes sir.
Q That is before you were married the way the church made you marry? A Yes sir.
Q You knew your wife's sister, Jennie? A Yes sir.
Q She was married to Sam Barnes was she? A Yes sir.
Q Did you come back with your wife after the war when she came from the Choctaw Nation? A I come a little ahead of her; a few days.
Q Just a few days? A Yes sir, she come with her father.
Q Did her sister Jennie come with her? A Yes sir.
Q She and your wife came together? A Yes sir.
Q Her sister Jennie was the mother of this Robert Barnes?
A Yes sir.
Q What were you doing down there in the Choctaw Nation, farming?
A Yes sir, worked on a farm awhile.
Q Well you were working on a farm all the time weren't you? A Well sometimes I was driving a team.
Q Did you make a crop of cotton?A No sir, corn crop.
Q Where did you locate when you came back from the Choctaw Nation?
A Near Cherokee Station, there on Caleb Starr's place.
Q What time of the year was it you got back here? A It was along in August, sometime in August; I disremember just what day in August it was , but we got back there in August.
Q You think that was in what year? A 1866.
Q What fixes that on your mind? A Well I kept count of how long the war run; I know what year the war come on.
Q How long had the war been closed when you came back? A I come back next spring after the war closed.
Q You fixed it on your mind that way? A Yes sir, that's the way it was.
Q You know this woman Jennie Barnes, Mother of Robert Barnes, whom did she belong to before the war? A I didn't know who she belonged to; I know who they always said she belonged to; she belonged to same man my wife did.
Q What was his name? AJohnson Whitmire; I never got personally acquainted with them until I got down there on Red River.
Q Was Jennie Barnes older or younger than your wife? A She was youngest; her mother and father said.
Q Was she married there in the Choctaw Nation? A No sir, I don't think she was until we come back to the Cherokee Nation I think.
Q Married after she got back? A Yes sir, as well as I recollect; that's what they told me; I wasn't there when they married.
Q But you were seeing them all the time weren't you? A Yes sir.
Q Did you see her very soon after she was said to have been married? A She staid there with me awhile on the Caleb Starr place.
Q Where were you when she married? A I was on the Caleb Starr place
Q Where was she when she married? A She was over in Ft. Smith; I think hired out.
Q And there is where she married Sam Barnes?A Yes sir, I think so.
Q How long was that after you had got back from the Choctaw Nation?A It was about one year I think, not quite a year; it was about six months.
Q She staid with you awhile on the Starr place and then hired to do some work over at Ft. Smith and then married? A Yes sir.
Q And where did she live after that?A Lived up on Lee's Creek there close by me.
Q How long did she stay at Ft. Smith? A I don't know exactly not very long though; I don't recollect now just how long it was.
Q How long was she married before you saw her, how long was it after her marriage that you saw her? A It was about two or three months I guess.
Q You saw her two or three months after she was married? Alright
Q Where did you see her? A She came over to my house there on a visit on the Caleb Starr place.
Q What Creek was it she lived on at one time? A Lee's Creek.

Q How long had she been marrie when she began living on Lee's Creek? A She had been married as well as I can recollect then about four or five years.
Q And she had quit work in Ft. Smith then had she and gone to live on Lee's Creek? A Yes sir.
Q What was her husband doing all that time? A Why he was farming; he went to farming after he come over to the Cherokee nation.
Q But during that four or five years before he lived on Lee's Creek you don't know whath e was doing do you? A Yes sir he moved over there and was hired out.
Q Moved over where? A The other side of Ft. Smith in the coal bank.
Q He worked there until he moved up on Lee's Creek? A Yes sir.
Q Now Sam Barnes, her husband, he makes no claim for himself as a Cherokee Freedman? A No sir, none as I ever known of.
Q He was working for wages up there about the coal bank I suppose? A Yes sir.
Q And after working there four or five years he then moved up on Lee's Creek and went to farming? A Yes sir. He was living over here when he was working in the bank; he had moved before he went to work over there.
Q What was his wife doing all that time when he was working at the coal bank? A She was working in the field there with me and my folks; they lived about three or four hundred yards from me.
Q You said just nowshe had come from over there up to Lee's Creek? ASHe did after they were married.
Q You said she came up ~~fax~~ there four or five years after they were married and now you say she had comebefore that and lived with you: which one of these can I rely on? A I said four or five years he lived over here and went back to work the other side of Ft. Smith about five years after he was married.
Q He went back there about five years after he was married to work A Yes sir.
Q Well then how long did he live over there after that? A After he ~~xxxxxx~~ had moved over here?
Q Yes.? A I don't know sir how long he worked; I couldn't tell exactly.
Q You now tell me that after he was married he came over here and worked four or five years and then went back to Arkansas and worked on a coal bank? A Yes sir
Q Well than how long did he work on a coal bank? A I couldn't tell you exactly how long he worked.
Q You told me awhile ago he worked four or five years on a coal bank? A No sir, I don't think I did; if I did I made a mistake.
Q How much was it you said, more or less? A It was less than that
Q Whose coal bank was it? A It was called Jenny Lynn, over ~~xxxxx~~ there about Huntington.
Q The town of Jenny Lynn? A Yes sir.
Q How long did he work over there about that coal bank off and on?
A As well as I recollect it was about a year.
Q Not four or five years? A No sir
Q Did he take his family along with him? A No sir, his family was over here living right by me.

Examined by Cherokee Representative W.W.Hastings:

Q Who was livingon the Cale Starr place at the time you were, immediately after you came back with your wife from the Choctaw Nation? A Ellis Harlin.
Q Did Ellis Harlin have some children living there? A He had two daughters.
Q What was their names? A Rutha and Emma.
Q They were living on the place at that time? A Yes sir.
Q Did he have any boys? A Yessir, had one named Oce.
Q What was the other ones name? A I forget the other's name; he didn't come aroundthere none; the other one didn't.

Q They were living there at that time? A Yes sir.
Q They were single and unmarried nd living there on the place/ At the time with their father? A Yes sir.
Q All of these children that you have mentioned? A Yes sir, all but Oce; I don't know whether he was married or not; he just come in and out; I don't know what he was; the girls though were single.

Com'r Breckinridge: The applicant states the the has lived in the Cherokee Nation all his life; he is now thirty-three years of age, but he is not identified on the roll of 1880 nor upon the roll of 1896 nor upon the Kerns-Clifton roll; his mother is said to have died some ten years ago, and she is not identified upon the roll of 1880; the testimony relating to his mother tending to establish that she came to the Cherokee Nation within the period required by the treaty of 1866 is of an indefinite character; a sister of the applicants mother is on Cherokee Freedman doubtful card number 42, and the testimony of the husband of that sister, Colly Albert, is conflictingin its character; while this application is not established in any satisfactory manner, yet at present it will be placed upon a doubtful card for the further consideration of the evidence, and the final decision of the commission will be made known to the applicant at his post-office address.

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony andproceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this April 30,1901.

Commissioner.

To be filed in case of John Barnes D 103.

Department of the Interior.
Commission to the Five Civilized Tribes.
Ft. Gibson, I. T., April 18, 1901.

In the matter of the application of Martha Albert for enrollment as a Cherokee Freedman; she being sworn and examined by Commissioner Breckinridge, testified as follows:
Supplemental testimony D - 42.

Q Give me your full name. A Martha Albert.
Q How old are you?m A I don't exactly know; I hold myself for about 57 years old.
Q What is your postoffice? A Melvin.
Q In what district do you live? A I live in Tahlequah District.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they all under 21 years of age? A No sir, they are all married but two.
Q Then you want to enroll those two? A Yes sir.
Q Have you a husband? A Yes sir.
Q Do you want to apply for his enrollment also? A No sir.
Q How long have you lived in the Cherokee Nation? A Been living here - I was born and raised here.
Q Lived here all your life? A Yes sir.
Q Have you applied before? A Yes sir, I didn't put my children on; I wasn't satisfied that way I went in for.
Q So you want to apply again? A Yes sir.
Q Why didn't you apply for your children when you applied before for yourself? A The witnesses couldn't stay.
Q You didn't have your evidence in good shape? A No sir.
Q I have here your enrollment card and it appears that you did apply for two children, one Elijah and one, Ida? A Yes sir.
Q Are those the names of your children? A Yes sir.
Q What you want to give now is some additional testimony? A Yes sir.
Q What witnesses do you want to introduce now? A Henry Brown and Andrew Crossland.

Henry Brown, being sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give me your full name. A Henry Brown.
Q How old are you? A I am suppose to be about 44 years old.
Q What is your postoffice? A Vian.
Q In what district do you live? A Illinois.
Q How long have you lived in the Cherokee Nation? A I lived here all my life, only the time of the war.
Q You were out during the war, were you? A Yes sir.
Q Where did you go? A Chickasaw Nation.
Q You lived in the Cherokee Nation before the war? A Yes sir.
Q Well you were quite a child during the war? A ######## I was about 13 or 15 years old during the time of the war; maybe 16; I don't know my age exactly.
Q What time did you come back to the Cherokee Nation, the time during the war? A They said it was in the fall of '65.
Q You came from the Chickasaw Nation? A Choctaw rather.
Q Then you never were out of the Indian Territory during the war? A No sir.
Q Do you know an applicant here, Martha Albert? A She used to go by the name of Whitmire.
Q Is she known as Albert now? A Yes sir, by her husband's name.
Q Did she belong to a man named Whitmire before the war? A That's what they claim they belonged to Whitmire.
Q Were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Brown.
Q What was Whitmire's full name, do you remember? A I don't know his full name.
Q Johnson Whitmire? A I heard that name, yes sir; I heard him

called by that name.
Q Well, now, in those days did you live near Whitmire's place? A No sir, I lived at that time in Canadian District.
Q How far from Whitmire's place? A That's - I don't know how many miles. They claimed before the war something like forty miles; I don't know.
Q You came back to the Cherokee Nation when? A In the fall of '65.
Q When did you first see Martha Albert, as she is called now, after you come back? A It was in '66 as near as I can remember; I saw her at old Jack Campbell's church house.
Q You can't be certain what year it was? A No sir, but I think it was in '66.
Q Have you known her pretty well ever since that time? A I have been seeing her off and on; I lived in Illinois and they used to live in Sequoyah.
Q Has she been living in the Cherokee Nation ever since you saw her then? A That is where I have been seeing her.
Q About how often would you see her, once a year or once every five or ten years? A I couldn't say how often; it wasn't often.
Q But you have seen her some since? A Yes sir, some since I come back after the war.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q Did you ever see this woman before the war? A No sir, never seen her before the war.
Q You never knew her then? A No sir.
Q The first time you ever saw her was after the war? A Yes sir.
Q And you never heard her personal name? A No sir.
Q You don't know that this woman was among them, the Whitmires? A No sir, I don't know.
Q I mean among them after the war when you saw her? A I only knew that they were Whitmire's darkies.
Q Did you know her personally? A No sir.
Q Did you know her after the war? A Yes sir, I saw her at this church.
Q The first time you saw the Whitmire darkies, you don't remember this woman personally except seeing her in the crowd? A I saw her with the Whitmire's darkies.
Q Were they at the Church house there at that time? A Yes sir.
Q Colored Church? A Yes sir.
Q Do you remember that this woman herself, individually, was among them? A No, only that they said they were Whitmires.
Q You don't remember this woman personally except the Whitmires generally that were there? A They said they was the Whitmire darkies.
Q Did you see this particular individual colored woman at that time in '66? A As near as I said it was '66, that was the day I saw her at the church as a Whitmire.
Q Did you see this particular woman? A Yes sir.
Q Do you think you saw her in '66? A As near as I can come at it.
Q You are not positive? A I am satisfied that it was '66.
Q What makes you fix that date? A Because I think it must have been near that time. It was the time I moved on Canadian. I was living there.
Q You were living in Canadian then? A Yes sir.
Q What were you doing down there? A I was in the Court at Fort Smith.
Q Who was preaching there? A I didn't go there; I just happened to be around there and Harry Foreman.
Q You don't know who preached? A No sir.
Q You didn't know this woman before? A No sir.
Q Why was it that this woman among a whole crowd of darkies was pointed out to you and why do you remember? A Because I heard it was the Whitmire darkies.
Q There was a number of them? A She was a particular one, he said was a Whitmire darkey.

Q What makes you remember that? A Because he said so.
Q Was she married then? A I don't know whether she was or not.
Q You don't remember of seeing her husband then? A No sir, I don't.
Q Where was that church? A Jack Town, this side of the river.
Q How far from the Payne place? A Six or seven miles this way from the river.
Q By Cherokee Junction? A Yes sir.
Q You don't know who she come back with? A No sir.
Q You don't know how long she's been back? A No sir.
Q What time of the year was it you saw her? A As near as I can say it was '66.
Q Spring, summer or fall? A Along in August of '66.

Commissioner-
Q You were a stranger down there in that neighborhood? A No, not exactly I knowed some of the people down there.
Q How far did you live from there? A 45 or 6 miles.
Q Had you ever lived in that neighborhood? A I used to stay there a while after the war by Dr. Campbell place .
Q Did you visit or live there? A When I come there, I came from Fort Smith and stopped at Campbells.
Q How long did you stay there? A Several months.
Q Were you acquainted with many of the Whitmire darkies as you call them? A No more than just heard them as Whitmires when I was at the church.
Q And there were a lot of them there and they said they were Whitmire people? A Yes sir.
Q There seemed to be a lot of them? A This woman said she was a Whitmire and Charley Whitmire; they called them the Whitmire Darkies.
Q How long after that was it before you seen this woman again? A I couldn't say how long it was afterwards; it was some times afterwards.
Q Some years? A No years.
Q When were you down there again? A Several times after that.
Q You have been down there several times since that time you were at the church and the present day? A Yes sir, several times.
Q Well, about how long after being at the church before you went there again? A It must have been; I couldn't say, I stopped by Jacktown and would be on this side of the river. I can't say.
Q Were there a number of these Whitmire colored people down there? A They were acknowledged to be Whitmire pagans. They claim to be several of them; the ones I speak of is the one I saw that Sunday.
Q Were there quite a number of them? A They claim there was a good number of them.
Q You saw a good many who were claimed to be Whitmire people? A Yes sir, Whitmire Darkies.
Q What impressed this woman on your mind? A Harry Foreman pointed her out to me as a Whitmire.
Q You weren't acquainted with her? A No sir, only saw her that Sunday.
Q He pointed her out and others as belonging to the Whitmire crowd? A Yes sir.
Q Do you think that made enough impression on your mind passing there to remember her during all this time, you living forty miles away? A I saw her since then; that wasn't the only time I saw her.
Q You can't say for certain what year it was you were down there? A No sir, as near as I can remember, I claim it must have been 166.
Q And this is as far as you can go? A Yes sir, in being honest.

Examination by W. W.Hastings, representative of the Cherkee Nation-
Q I believe you stated that you attended Court at Fort Smith?
A Yes sir.
Q What trial? A Brother Green.

Q Was he tried at Fort Smithhat year? A Yes sir.

Commissioner-
Q That is the year you claim you saw the woman at this church?
A Yes sir.
Q Remember we are talking about the year you saw the Waitmire people? A I think it was in '66.
Q I am not asking you about that, we are trying to locate what business you had in the Court at Fort Smith in the year that you were at the church - what business took you to Fort Smith that particular year? A I couldn't say what year.
Q I never asked you about the year, I asked you about the business?
A As a witness.
Q In what case? A Green Lowry.

Examination by W. W. Hastings,
Q What Judge tried that case? A Judge Parker.
Q At Fort Smith? A Yes sir.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. E. Rothenberger

Subscribed and sworn to before me this 26th day of April, 1901.

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T. April, 18th 1901.

In the matter of the application of John Barnes, for the enrollment of himself and one child as Cherokee Freedmen; he being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q What is your name? A. John Barnes.
Q How old are you? A. 24.
Q What is your post office? A. Gans, I. T.
Q In what district do you live? A. Sequoyah.
Q Do you apply as a Cherokee Freedman? A. Yes sir.
Q Who do you want to have enrolled besides yourself? A. One child.
Q How long have you lived in the Cherokee Nation? A. All my life.
Q Give me the name of your ~~mother~~ father? A. Sam Barnes.
Q Is he alive? A. Yes sir.
Q Give me your mothers name? A. Jenny Barnes.
Q Is she alive? A. No sir.
Q How long has she been dead? A. 10 or 11 years.
Q Give me the name of your child? A. Gussie A. Barnes
Q How old is the child? A. One year old, the 6th of June.
Q Is this child living now? A. Yes sir.
Q Give me the name of the mother of this child? A. Ruth Barnes.
Q How old is Ruth Barnes? A. 24.
Q She is your wife is she? A. Yes sir.
Q When did you marry her? A. In '98.
Q She is not a Cherokee Freedman is she? A. She is a claimant.
Q Why dont you apply for her then? A. Her mother I guess will apply for her.
Q She is married and her mother cannot apply for her, you are the one that has to apply for her. A I cant apply for her.
Q She will have to apply for herself then? A. Yes sir.
Q You make no claim then for your wife at this time? A. No sir.
Q You dont claim for this child then at this time by reason of any right it might derive through its mother? A. I am applying for my child.
Q What I mean is that you dont apply for your child through any right it gets from its mother but what it get through you as the father? A No sir I dont claim for it through its mother.
Q You dont depend then on the standing of the mother of this child as a ground for the enrollment of this child? A. No sir.
Q And you decline at this time to apply for your wife? A. Yes sir.
Q And you only make application for the enrollment of yourself and this child and not for your wife at this time? A. That is all.
Q And I understand you fully to say that you decline to apply for your wife yourself? A. Yes sir.
Q You have a brother? A. Yes sir.
Q Robert Barnes is his name? A. Yes sir.
Q He applied some time a short time ago? A. Yes sir.

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MARTHA ALBERT, called and sworn by Commissioner Breckinridge as a witness testified as follows:

Q What is your name? A. Martha Albert.
Q How old are you? A. 57 or 58 years old.
Q What is your post office ? A. Melvin.
Q You claim to have lived in the Cherokee Nation all your life?
A Yes sir.

NOTE: ( By Commissioner ) Her case is Cherokee Freedman Doubtful Card No. 42.

Q Are you the mother of this applicant? A. No sir, I am his aunt.
Q He is a son of your sister Jenny Barnes? A. Yes sir.

Q She has been dead about ten years? A. Yes sir.
Q Is this applicant a full brother of Robert Barnes? A. Yes sir.
Q He is married? A. Yes sir.
Q What is his wife's name? A. Nathie.
Q When were they married? A. About three years ago.
Q Was he ever married before? A. No sir.
Q Was she ever married before? A. No sir.
Q They have been living together as husband and wife ever since then have they? A. Yes sir.

By Commission of Applicant-

Q You were never married except to this wife? A. No sir.
Q She was never married except to you? A. No sir.
Q Give me the name of her father? A. Gib White.
Q Is he alive? A. Yes sir.
Q Give me the name of her mother. A Millie.
Q Is she alive? A. Yes sir.

[illegible]

The 1880 authenticated roll of the Cherokee Nation examined and the applicant not identified thereon.

The 1896 census roll of the Cherokee Nation examined and the applicants not identified thereon.

The Barnes-Clifton roll of the Cherokee Nation examined and the names of the applicants not identified thereon.

By Com'r Breckinridge,- The applicant applies for the enrollment of himself and one child. He states that his wife is a citizen but declines to make application for her enrollment at this time. He states that they were married in 1900. The applicant is not identified on the roll of 1880 or upon the census roll of 1896 or upon the Barnes Clifton roll, but he claims through his mother Jennie Barnes, who has been dead some ten years. Reference is made in this connection to the name of the applicant's brother Robert Barnes, where the status of his mother is set forth in full, and also to the case of the applicant's aunt, a full sister of Jennie Barnes, Martha Albert, which is Cherokee Freedman Doubtful Card No. 44. It is [illegible] consequently in his own right through his mother, [illegible] will now be listed as a Cherokee Freedman on a contingent card. His marriage is duly established by his own and his wife's testimony, and also that he and his wife were never married previous to their present marriage. Therefore when the applicant furnishes the Commission [illegible] child also will be listed for enrollment as a Cherokee Freedman on a contingent card.

John Barnes 3.

Chas. von Welso, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Welso

Subscribed and sworn to before me this the 18th of April, 1903, at Fort Gibson, I. T.

C. Wharton

Commissioner.

FD 103.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
AUG 22 1901

To be filed with case of John Barnes, et al., C. R.D.#103.

# S U P P L E M E N T A L  T E S T I M O N Y.

D.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 21st, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen:

RUTH HUNT, being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
A. S. McRe., Attorney for Applicants;
W. W. Hastings, Cherokee Representative.

Q What is your name? A Ruth Hunt.
Q How old are you? A 54.
Q What is your post office address? A Vinita.
By W. W. Hastings: Mrs. Hunt, what was your maiden name?
A Harlin.
Q What was your father's name? A Ellis Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Where did you go during the war of the Rebellion?
A Fort Smith, Arkansas.
Q After the war did you return to the Cherokee nation? A Yes, sir.
Q When did you return to the Cherokee Nation? A 1867.
Q What time of the year? A It was either February or March, I don't remember which.
Q But '67? A Yes, sir.
Q Did any colored people return with you to the Cherokee Nation when you came back? A No, sir.
Q Did you return with your father? A Yes, sir.
Q To what point did you return? A About four miles this side of Fort Smith, on the line of Arkansas, about a quarter of a mile from the line, Arkansas line.
Q Did you know a colored woman by the name of Martha Albert who is the wife of Colly Albert? A There was a man worked for us we always called him Albert, I don't know what his other name was, his wife was named Martha; he worked for us that summer we came back.
Q The summer of '67? A Yes, sir.
Q Did they return with you? A No, sir.
Q Were they over there at the place when you returned? A Yes, sir.
Q Do you know where they came from? A No, sir, I don't; pa hired some man in Arkansas somewhere and hired the man to come and work, but I don't remember where he got him. He had a man at work for us and the man quit and he went away somewhere and got this man, got him in Arkansas somewhere towards Fort Smith, but I don't know.
Q You brought no colored people back with you? A No, sir.
Q Did these people claim at that time to be Cherokee freedmen?
A I never heard it; if they did I don't remember anything about them claiming.
Q Do you know what became of them after they left your place?
A No, sir, I never seen or heard tell of them until they was taking the roll at Vinita here before.
Q In 1896? A Yes, sir, that is the only time I have ever heard of them since.
Q Are you a Cherokee citizen by blood? A Yes, sir.
Q You reside at Vinita? A Yes, sir.

CROSS EXAMINATION BY A. S. McRE:

Q Mrs. Hunt, did you know the applicant, Mattie Albert, before the war? A No, sir.
Q Do you know her at all? A I don't know her only just as far back as 1867; I remember there was a man worked for us by the name of Albert, we called the woman Martha and the man Albert, they worked for us here during the summer of 1867, that is all I know about it.
Q You don't know whether she is the one who belonged to Johnson Whitmire before the war or not? A No, sir, I don't know; I never heard her say that she belonged in the Nation before the war.
Q Did you know the Whitmires? A Yes, sir.
Q Did you know any of their slaves? A I can't remember them, I knew them but I can't remember them.
Q Now, this man Albert that worked for your father, you don't know his given name? A No, sir, we just called him Albert, and I don't remember what his other name was.
Q You don't know whether Albert was a given or surname? A No, sir; I don't know which it was.
Q Would you know the same persons if you would see them again? A I don't think I would, it has been so long.

RE-DIRECT EXAMINATION by Mr. Hastings:

Q How far did you live from Johnson Whitmire before the war? A About ten or 12 miles. I knew the family and I guess knew the slaves, I don't remember them now.
Q I believe you said you were 54, that would make you be born in 1847; you would be about 13 years old when the war come up? A Yes, sir.
Q I was going to ask you if you lived in ten or twelve miles of Johnson Whitmire and if this woman had belonged to him before the war, it is quite likely you would have known that in 1867? A It seems that she would have known people that I did and would have said something about it. I went to school with Whitmire's children and have been at Ben Whitmire's house and I guess would remember some of the names if I heard them recalled, but I can't remember them now.
Q You didn't recognize this woman? A No, sir, I would not recognize her now.
Q You didn't recognize her then as belonging to Johnson Whitmire? A No, sir.
Q Never heard her remark about it? A No, sir.

EMMA FINLEY, being duly sworn by Commissioner T. B. Needles, testified as follows:
DIRECT EXAMINATION BY MR. HASTINGS:

Q What is your name? A Emma Finley.
Q What is your age, Mrs. Finley? A 51.
Q What is your post office address? A Tahlequah.
Q Are you a Cherokee by blood? A Yes, sir.
Q Recognized citizen of the Cherokee Nation? A Yes, sir.
Q Mrs. Finley, what was your maiden name? A Emma Harlin.
Q You are a sister of Mrs. Hunt who has just testified?
A Yes, sir.
Q What was your father's name? A Ellis Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Did you come back with your father after the war to the Cherokee Nation? A Yes, sir.
Q When did your father die? A '67.
Q Where did he die? A Down in Sequoyah district, near Fort Smith.

Q To what point in the Cherokee Nation did you return after the war? A Down on the line close to Fort Smith.
Q About how far from Fort Smith? A Four miles.
Q I ask you if any colored people returned with you? A No, sir.
Q What time did you return to the Cherokee Nation? A In '67.
Q What time in '67? A I am not positive what month it was, it was either February or first of March, I think.
Q Did any colored people return with you? A No, sir, there was not.
Q Do you remember a colored woman by the name of Albert, Martha Albert? A Why, yes, I remember her, she didn't come back with us.
Q She didn't come back with you? A No, sir.
Q When do you first remember of having seen her? A I think it was the last of March or first of April, I am not positive which, but it was along about that time.
Q It was after you returned to the Cherokee nation after the war?
A Yes, sir, after we come back in '67.
Q Do you know where she came from? A In the state some place.
Q She worked foryou that season, pr part of the time? A Part of the time.
Q She didn't come back with your or your father? A No, sir.
Q Do you know whether she claimed at that time that she was a Cherokee slave? A No, sir, she didn't; if she did I never heard her. Never claimed at all.
Q Mrs. Finley, did you know Johnson Whitmire before the war?
A No, sir, I had heard of him but I was not acquainted with him.
Q You were young? A Yes, sir.

CROSS EXAMINATION BY A. S. McREA:

Q Mrs. Finley, where did you all go to before the war, did you leave the Nation? A Before.
Q Yes? A No, I left the Nation after the war began.
Q Left during the war? A Yes.
Q Where did you go to? A Fort Smith.
Q Did you know Martha Albert at that time? A When I left the Nation?
Q Yes? A No.
Q Where was the first time you ever seen Martha Albert? A In '67.
Q Where at? A In Sequoyah district.
Q At what time of the year was it? A It was in the last of March or first of April, I am not sure which.
Q In 1867? A Yes, in '67.
Q Do you know whether she had ever lived in the Nation?
A No, I don't.
Q Did her husband work for you all? A Yes, in '67.
Q What was his name? A Colly, that is all the name I ever heard.
Q Just knew him as Colly? A Yes, that is all we called him.
Q Do you know whether or not they were slaves? A No, I don't know.
Q And you saw they came here from the State of Arkansas to work for your father in 1867? A Yes.
Q You don't know whetheror not of your own knowledge they had been in the Territory prior to that or not? A No, I only know that he went over in the State and got them.
Q What were they doing in the State? A I don't know.
Q You don't know whether they were living there or not?
A I suppose they were living there; went there and got them.
Q Isn't it possible that they could have been over there at work?
A It is possible, it is not impossible, of course, they had every right they had over there.
Q [illegible] remember in the [illegible] A I don't know.

Q Had all their possession in the State of Arkansas? A Yes.
Q Did they move those possession over to your father's place when they come there? A Yes.
Q What possessions did they have? A They didn't have much, just what they had in the house and one horse.
Q You don't know whether they left the Territory or not?
A No.
Q And you don't know whether they come back in 1866 or not? A No.
Q And the first you knew about them was when they worked on your father's place in 1867? A Yes.

HARRY STILL, called as a witness on the part of Applicants being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Harry Still.
Q What is your post office? A Hayden.
Q What is your age? A Well, sir, I don't know exactly, something over 50.
Q You are a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A No, sir.
Q You are a contested citizen? A No, sir.

DIRECT EXAMINATION BY A. S. McREA:

Q Mr. Still, you are called on to give some evidence in the case of Martha Albert; are you acquainted with Martha Albert? A No, sir, I am not.
Q Did you know Johnson Whitmire? A Yes, sir, I knew Johnson Whitmire.
Q Did you know any of his slaves? A Yes, sir, I knowed his slaves, I knowed 'em all, he was a brother of my Master.
Q Did you know this woman Martha? A Martha Whitmire? I didn't know any Martha Whitmire.
Q Did you know Colly Albert? A I knew Colly Albert when I see him.
Q Did you know him before the war? A No, sir, I didn't.
Q Did I understand you to first say that you knew Martha Albert, or that you did not know her? A I do not know her; I knew Johnson Whitmire's slaves, but I did not know her.
Q Do you know Eliza McCrady? A No, sir.

CROSS EXAMINATION BY MR. HASTINGS:

Q Where did you live before the war? A Lived on Barren Fork at George Whitmire's place.
Q What kin was George Whitmire to Johnson? A Brother.
Q How far did they live apart? A It must have been four or five miles.
Q Are you well acquainted with Johnson Whitmire? A Yes, sir.
Q Are you well acquainted with Johnson Whitmire's slaves?
A Yes, sir.
Q Did you know him to have a slave by the name of Martha?
A No, sir, I didn't know one by that name.
Q Didn't know one by that name? A No, sir.
Q You lived there in four or five miles? A Yes, sir.
Q If he had one you would have known it? A Johnson had a good many colored people; I know most of them, I knew all of them, all he raised.
Q This woman claims now to be about 54 or 56 years of age, which would have made her 18 or 16 years old when the war come up; you didn't know any Martha Whitmire that was some thing of that age that belonged to Johnson Whitmire? A No, sir.

Q How old are you, Harry? A I am something over 50 years old, about 54 as near as I can get at it.

RE-DIRECT EXAMINATION BY A. S. McREA:

Q Did Johnson Whitmire own a slave by the name of Charles Whitmire, or Charles Bolen? A If he did I didn't know, he may, I have heard of Charles Bolen, but I don't know who he is.
Q Well, did he own a slave, family slave, by the name of Nancy?
A Not as I know of, sir.
Q Now, as I understand you to say, Mr. Still, you didn't know all the slaves of Johnson Whitmire? A Yes, sir; I was acquainted with 'em, they was kin to me.
Q You were kin to all them? A Yes, sir, kin by blood and I know them.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this August 19th, 1901.

Commissioner.

File with Cherokee Freedman, D- 103, John Barnes.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Testimony on behalf of Cherokee Nation.

Appearances:
A. S. McKee, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

WATT WHITMIRE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Watt Whitmire.
Q What is your postoffice? A Westville.
Q How old are you? A 48.
Q What is your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte Whitmire.
Q In what district did your father live before the war?
A Going Snake.
Q Was there any other Johnson Whitmire in Going Snake at that time, that was grown, an old man with a family? A No, sir, not as I know of; there was a Johnson, a boy; he is younger than I am.
Q Well, he was born about the time or after the war came up, or when; about how old is he? A He is some thirty odd, some 37 or 8.
Q Did your father own some slaves when the war broke out? A Yes, sir.
Q Do you know whether or not your father or your mother owned a slave by the name of Martha when the war broke out? A No, sir, not as I know of; none by that name.
Q Did your father or mother own a slave by the name of Nancy, a woman? A No, sir, not as I know of.
Q This Martha, according to her statement, would be some 14 or 15 years of age at that time? A No, sir, I don't recollect nary one by that name.
Q You are Johnson Whitmire's son? A Yes, sir.
Q You were living at home at the time the war broke out? A Yes, sir.
By A. S. McKee: Mr. Whitmire, how many slaves did your father own?
A I didn't know the exact number.
Q Were you acquainted with the names of all the slaves of your father? A Why I believe I recollect the oldest, I don't know that I recollect the smallest children's names, of all.
Q About what was approximately the number of old slaves? A Well, I will have to count them up.
Q Well, give an approximate statement? A About 13 or 14 or somewhere along there; I don't know just exactly.
Q Did he own a slave by the name of Nancy? A Not as I recollect of; I don't recollect any such name.
Q About how old were you at the breaking out of the war? A I was born in '58; I believe the war broke out in '61, wasn't it; about '61.
Q You were about 3 years old? A 3 or 10 years, somewhere along there.
Q You couldn't be have possibly owned this female girl and you not have any recollection of it? A I recollect all the names from my size up, but I don't recollect of any such name as Martha. There wasn't but two girls; and one was named Mary and one Minnie.
Q They were the only two female colored girls of the ages of 13 or 14 years old? A Well, they were younger than that; Minnie was younger than that and Mary was I reckon maybe two or two years older

than me; I don't know exactly, but I just judge from her size.
Q Well now, do I understand you to say this number of fourteen or fifteen adults, or older slaves, did they have any children? A Oh yes, that included men and women together.
Q Included men and women together? A Yes, sir.
Q Did they have any children? A Yes, sir.
Q Do you remember the names of them all? A Well not of all, I remember the names of some of them.
Q About how many children did each family have? A Well, there was one woman by the name of Fronie had one child named Susie, and there was an old lady named Sukie had two or three, and I don't recollect the names of but one boy, his name was Joe, and this girl Nannie I spoke of was the child of old Aunt Sukie; and there was one by the name of Rachel, I don't recollect just how many children she had, but one or two or three, somewhere along there; they were quite small when the war broke out.
Q That is all the children? A No, sir, I don't recollect just how many children there were in the while family of the darkies, but there was Rachel's children, and Aunt Sukie's children, and Fronie's child, one child, I believe isall I recollect of.
Q Well, where did your father's slaves go during the war? A Well I can't tell you exactly; my understanding is they went north.
Q That they all went north? A Yes, sir, part of the men folks left here before I left the old place, and when I left there I left part of the women folks at home, at the old home place.
Q Leave any of the children? A Yes, sir.
Q Have you any recollection what became of them? A No, sir.
Q Did you ever see any of them any more? A No, sir, never saw any ~~more~~ of them any more at all.
Q Did you go away yourself? A Yes, sir, taken away.
Q Where did you go? A Went from there to Cane Hill, Arkansas.
Q When did you return? A After peace was made; went on from Cane Hill south.
Q Have you any acquaintance with this alleged party to this suit, Martha Albert; are you acquainted with her? A No, sir.
Q Don't know her? A Don't know her at all.
Q How long have you lived in the Cherokee Nation now since your return from Cane Hill; was that the place you went to? A Went from the Nation to Cane Hill and from Cane Hill went south in the Choctaw Nation.
Q Then when did you return from the Choctaw Nation to the Cherokee Nation? A Returned in '67.
Q To what point? A Back at the old home place in Going Snake district.
Q You have lived here continuously ever since? A Yes, sir.
Q Were you extensively acquainted with the colored people in and around, or rather in Going Snake district? A Yes, sir.
Mr. Hastings: Now as I understand you, Mr. Whitmire, you stated that you remember all of the slaves that were of your age and older, but those that you don't remember were those that were younger or smaller? A Yes, sir; I remember some that were younger than I was, them that I called a ~~yand~~ while ago.
Q You are positive your parents didn't own a slave by the name of Nancy? A No, sir, none that I know of, there wasn't any Nancy on the place, and I believe I can call the names of all the women.
Q Are you positive your parents didn't own a girl older than yourself named Martha? A No, sir, wasn't any on the place named Martha.

J. W. ALBERTY, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A J. W. Alberty.

Q Mr. Alberty, what is your age? A Well, I am 67 years old.

Q What is your postoffice? A My postoffice is Westville, Indian Territory.

Q What district do you live in? A I live in Going Snake district.

Q You a Cherokee by blood? A Yes, sir.

Q Mr. Alberty, where did you live in the Cherokee Nation before the war? A In Going Snake district.

Q Near where you now live? A Yes, sir.

Q Did you know Johnson Whitmire? A Yes, sir.

Q Did you know him before the war? A Yes, sir.

Q How far did you live from him? A Well, it was about ten or twelve miles, I reckon we called it.

Q Did you know his family? A Well, yes I knew his family.

Q This witness here before, named Watt Whitmire, was he a son of Johnson Whitmire? A Yes, sir.

Q I will ask you if you were acquainted with a colored man by the name of Charles Boland before the war? A Yes, sir, he was a mixed blood, free.

Q I will ask you if you knew a colored woman by the name of Nancy Whitmire, alleged to have belonged to Johnson Whitmire before the war?

A Yes, sir, I knew her.

Q Now, if you know what became of Nancy Whitmire and Charles Bola nd I wish you would make a statement to the Commission? A The Whitmire boys sold Nancy to a man named Dillingham, and he moved right across the line from where I lived, five or six miles, and owned them there until he moved off to Texas, Charles Boland and Nancy; I knew them better after Dillingham got them than I did before.

Q Who sold them to Dillingham? A The Whitmire boys, George Whitmore and Johnson Whitmire; they were brothers and they sold them at the time they divided up the property.

Q Now about how long before the war was that they sold them, about what year? A I reckon it must have been in '47 or '8, I haven't got the dates, I wasn't expecting anything of this kind, and I didn't get the dates, but it must have been in '47 or 8.

Q What was Dillingham's citizenship? A He had none.

Q Was he a white man or Cherokee or what? A He was a white man and lived in the state.

Q What state? A Arkansas.

Q Lived across the line in the State of Arkansas? A Across the line, yes, sir, in the State of Arkansas.

Q Do you know what finally became of him out there? A Mr. Dillingham, in about '50 or '51 moved to Texas and carried the family, and Boland went with them, he was free but he followed this family off to Texas.

Q Do you know whether he had Nancy for a wife or not? A Yes, Boland had this Nancy for a wife, and claimed the family, and when Dillingham carried the family off he went with them.

Q How far did this man by the name of Dillingham live from you?

A About five or six miles.

Q Now how far did you live from the Cherokee line up there?

A Well about that time I only lived about half a mile, right at it.

Q On the west side of the Cherokee and Arkansas line? A On the west side of the Cherokee line.

Q And Dillingham lived on the Arkansas side? A On the Arkansas side, just over near what is called Dutch Town or Salem.

Q He laid no claim to Cherokee citizenship? A No, sir, not a bit; he had a son that was adopted, but the old man had none.

Q And I believe you stated that along about '50 Dillingham carried these people to Texas? A He carried them to Texas.

By A. S. McRea: I understand you to say Johnson Whitmire sold Nancy? A Yes, sir.

Q Nancy Sheppard then did belong to Johnson Whitmire? A Yes, sir, she did belong to Johnson Whitmire; there were two brothers of the children, George and Johnson Whitmire, and they owned an interest in them and they both sold their interests.

Q About what year was that? A Well sir, I can't positively say, but it was in or about '47 or '8; I have nothing to guide me by.

Q Do you know Martha, the child of Nancy? A No, sir, they were all small when they went off, I don't know any but a boy they called Ellis; Dillingham brought him back with him just a little while before the war came up.

Q Did Nancy have children when Johnson sold her? A Yes, sir.

Q Did he sell the children with her? A Yes, sir.

Q Nancy's whole family was sold? A The whole family went, yes sir.

By A. S. McRea: Mr. Alberty, where do you live? A I live in the eastern part of the Cherokee Nation here.

Q And you say Johnson Whitmire sold Nancy, the alleged mother of the applicant, Martha Albert, in 1847? A I didn't say the time he sold her, because I don't know that, he sold Nancy, Charles Boland's wife to Dillingham, and the children, but I don't know nothing about Martha at all, I didn't say the mother of her, but if she is the daughter of Nancy, why she - -

Commissioner: Was sold with the balance, was she? A Yes, sir, sold with the balance; the whole family was sold.

A. S. McRea: To whom did you say they were sold? A Dillingham.

Q Where did he live? A He lived in Texas.

Q Do you know of your own knowledge that this woman, Nancy, went to Texas? A Yes.

Q How do you know that? A I saw them start.

Q Did you see them arrive? A I didn't see them arrive in Texas, but I saw them start on the road.

Q Do you know whether or not, of your own knowledge that they arrived there? A No, sir, I can't say that, but I guess from all the circumstances they did.

Q What fixes it on your mind so very definitely that they were sold in '47? A Well, just as I said before, I said I wasn't positive about that, but it was in or about that time.

Q For how much was she sold? A Well I can't exactly say now what they did bring, because they got some horses and some cattle and some money.

Q How many horses? A I can't answer that question.

Q How many cattle? A I don't know.

Q How much money? A Well, I don't know that that would amount to anything, because it was satisfactory to them.

Q You say they were sold and we want to know what was the status of the sale? A Well I don't know the amount that they got for them, I can't say.

Q Did you see any money exchanged? A No, sir, but after that they changed hands, the darkies went.

Q It is true, they could possibly have changed hands without any sale? A Well hardly them days.

Q Then in so many words, you don't know whether that was a bona fide sale or not or your own knowledge? A Well, of my own knowledge, I would have to say it was a bona fide sale, or else he wouldn't have taken them out of the Cherokee Nation.

(Foregoing answer read by stenographer at request of attorney for applicant.)

Witness: Yes, sir.

McRea: He said you would suppose it was a bona fide sale.

Commissioner: Was that your answer?

Witness: A Yes, sir.

Commissioner: How long after the sale was it before Mr. Dillingham taken them to Texas? A It must have been 2 or 3 years, they lived right there close neighbors to us two or three years after they

bought them.

Q With whom? A With Dillingham, in the State of Arkansas.

Q Then when the sale was made Dillingham at that ~~xxx~~ time was living in Arkansas? A Yes, sir.

Q Is your first statement that he was living in Texas correct, at the time of the sale? A No, sir, I didn't make that, he was living in Arkansas and moved to Texas, I said, in about '50 or '51 and taken them with him in about '50 or '51.

McRea: I would like to examine the face of the record.

Commissioner: The record shows for himself. If the witness contradicts himself the record shows it. I think the witness did state when you asked him where Dillingham lived, that he lived in Texas, but you didn't specify the exact time when he lived, but the witness stated plainly now at the time Dillingham bought the slaves he lived in Arkansas and moved to Texas a few years after.

McRea: Did you ever see Nancy Whitmire any more? A Well, I never saw her after he moved off to Texas with her.

Q Are you acquainted with Martha Albert, the applicant in this behalf? A No, sir.

Commissioner: You don't know Martha at all then? A No, sir; well there were several children, but I don't recollect their names; there were several children then only they were small.

Q You have never seen the ~~xxxxx~~ mother of Martha, Nancy, after Dillingahm took her to Texas? A No, sir.

McRea: And you don't know whether or not this woman, Martha, was one of the number of these children that accompanied the mother, Nancy, to Texas or not? A No, sir, I don't.

Commissioner: Did Nancy have children to your recollection?

A Yes, sir.

Q You don't recollect how many? A Well, no I don't, there was three or four, four children, there might have been more and might have been less.

Q Know whether they were boys or girls? A There was one boy.

Mr. Hastings: I believe you states that these children that she had went with her? A Yes, they all went with her.

McRea: About what was the age of these children? A Well, they were small, they were not very large.

Q 3, 4, 5, 6 ~~xxxx~~ or 10 years, something like that? A Well, he must have been 6 or 7 or 8 years old, maybe 10, I can't state that.

Q Was that a girl or a boy? A I think the oldest one was a girl.

Commissioner: This testimony will be made part of the testimony in the cases, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152, D-146, D-182. Attorney McRea for applicant objects to testimony being filed in the case of Robert Barnes et al., and the objection is overruled.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 5th of September, 1901.

M D Green.

Commissioner.

File with Cherokee Freedman D- 103, John Barnes.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 11, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedman.

Supplementary evidence introduced on behalf of applicants.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

The Commission: Now Mr. McRea, state briefly what you desire to prove by this witness.

A. S. McRea: Applicant desires to offer testimony in behalf of herself et al., by Sam Barnes, showing that mother of applicants did return to the Cherokee Nation within the time of the treaty stipulations, and that so far as the sale of she and her mother to one Dillingham, it is untrue.

The Commission: When you speak of the applicant, I suppose you mean Martha Albert?

McRea: Yes, Martha Albert and others.

Mr. Hastings: The Cherokee Nation objects to the applicant being allowed to introduce any testimony in this case on the question of the return of any of the applicants, for the reason that applicants introduced their testimony on both ownership and return, and the Cherokee Nation introduced testimony on both, and the only testimony which can legally be introduced by the applicant now as testimony in rebuttal of new matter brought out by the Cherokee Nation in its testimony.

The Commission: The objection of the Cherokee Nation will be noted.

S. B. BARNES, appearing before the commission and being duly sworn and examined, testified as follows:

A. S. McRea: Give us your name, Mr. Barnes? A S. B. Barnes.
Q Your age? A About 57, going on 58.
Q Postoffice address? A Benge.
Q Mr. Barnes, are you acquainted with the applicant, Martha Albert? A Yes, sir.
Q How long have you known her? A I have known her going on 57 years.
Q Do you know whether or not she was a slave in the Cherokee Nation before the war of the rebellion?

Mr. Hastings: I object to that, both because the very testimony itself shows that he didn't know that; said he hadn't known her but 57 years.

Commission: Ask him the question.

Q Where was she when you first knew her? A She was down here right about to Cherokee.
Q Where is that? A That is down right on the line, at the Sherloc junction.
Q Was that in the Cherokee Nation? A Yes, sir.
Q Did you know her mother? A Yes, sir.
Q What was her mother's name? A Nancy.
Q How long had you known the mother? A I got acquainted with her in '66.
Q Where was she when you first met her? A I met her down there.
Q In the Cherokee Nation? A Yes, sir.
Q Do you know whether or not they were out of the Cherokee [illegible]

or not?

Mr. Hastings: He says he never met them till '64 and '65; you ought to know that he can't testify to that.

McRea: He might have heard; we have been taking hearsay testimony.

Commission: Answer the question.

A I don't know.

Q Did you ever hear of the mother of your wife, Sarah Barnes, having been sold to a man by the name of Dillingham?

Mr. Hastings: Objected to by the Cherokee Nation on the ground of hearsay.

Commission: Ask him if he knows.

Q Do you know? A No, sir, I don't know it.

Q Did your wife ever tell you they were sold.

McRea: What his wife told him is admissable.

Mr. Hastings: Objected to by the Cherokee Nation on the ground that it is clearly inadmissable, it being hearsay testimony, and a declaration in interest of the party.

Commission: Let him answer the question.

Q Did your wife ever tell you whether or not she and her mother were sold to Dillingham of Arkansas? A No sir, she never did.

Q I will ask you if you and your wife ever had any conversation pertaining to her citizenship?

Mr. Hastings: Objected to by the Cherokee Nation for the reason that it is clearly hearsay and inadmissable.

McRea: That is not hearsay testimony.

Commission: I will let him answer the question.

Mr. Davenport, Cherokee attorney: I will object on the ground that he can't testify for or against his wife, under the rules of law. I think I recollect that the Commission has served notice that it would follow the ordinary rules of evidence.

McRea: The Commission served notice that it would not confine itself to the different rulings and technicalities of law in trying testimony in this matter.

Commission: Go on with the examination, Mr. McRea.

(Question read to witness by stenographer.)

A Why of course, she met the John Chambers Court at Tahlequah.

Q Where did you marry your wife? A Marry her; we were engaged here in the Cherokee Nation but we were married at Fort Smith.

Q She was living in the Cherokee Nation when you courted her?

A Yes, sir.

Q Now when did you marry her? A I married her in November, '66.

Mr. Hastings: Where did you live before the war? A I lived in Texas.

Q What county? A Fannin County.

Q What was your owner's name? A Higginbotham.

Q What was his first name? A Thomas Higginbotham.

Q What was the nearest town to you? A Bonham.

Q Did you know Jerry Starr down there? A No, sir.

Q Did you see your wife down there? A No, sir.

Q You didn't? A No, sir.

Q Did you see Nancy Whitmire, or Nancy Boland, down there? A No, sir

Q See Martha Albert? A No, sir.

Q How old are you? A I have turned 58 years old.

Q What is your father's name? A My father, Bob Barnes.

Q When did you leave Texas? A I left Texas directly after the war ended.

Q Well, did you make a crop down there the year the war ended?

A I wasn't big enough, I didn't make no crop.

Q Who were you living with? A I was living with my old mistress.

Q She wasn't a Cherokee? A No, sir.

Q Well, did you make a crop with your old mistress, or for her, that year? A Yes, sir.

McRea: I object to all that; it is irrelevent to the question at issue.

Commission: Answer the question.

Q You made a crop for her you said? A Yes, sir.
Q The year the war ended? A Yes, sir.
Q Now then you stayed there then that year? A I left there just as the war was up.
Q I thought you said you made a crop there? A I did.
Q Then you laid that crop by, did you? A The war came to an end in the spring of '65 if I understand anything.
Q Well, how did you come to leave Texas and who did you go with?
A I come by myself.
Q Just alone? A Yes, sir.
Q Come afoot? A No, sir.
Q How did you come? A I had a horse.
Q Well, where did you come to? A I come to Fort Smith.
Q You had never been to Fort Smith before? A No, sir.
Q You had never heard of Fort Smith in your life before? A Oh yes sir, I hadn't been dead I don't reckon, I was a man.
Q How far below Fort Smith did you live when you lived in Texas?
A From Fort Smith?
Q Yes? A You mean just out on the river?
Q In Texas? A It is about 200 miles.

McRea: I object to that, the question is misleading in its nature, and I object to it.

Commission: He has already answered the question.

Q You came direct to Fort Smith? A Yes, sir.
Q Who did you work for there? A I worked for Bill Belt, five miles out south of town.
Q How long did you work for him? A I worked there a couple of weeks, or about a week, or couple of weeks.
Q Then where did you go? A I crossed over here in the Cherokee Nation.
Q What induced you to leave down there and leave your folks and go to Fort Smith at that time? A Just because I had a notion to go to Fort Smith.
Q Then what induced you to leave Fort Smith after being there only two weeks and go over on the Nation side? A Just because I wanted to go.
Q You didn't know anybody over there, did you? A No sir.
Q You had never seen a soul? A Of course I had seen people.
Q You had never seen one of them over there at Fort Smith?
A Not from across the Cherokee Nation side, across the river; why I saw people down in Fort South out of the Cherokee Nation.
Q Who did you meet that lived on this side of the river, at Fort Smith? A I met Tom Stoneroad and Mrs. Franklin, I don't know how many people I didn't meet.
Q Whose place did you go to on this side of the river first? A I was at Mr. Stoneroad's place the first place I was at, right on the line.
Q How long did you stay there? A I didn't stay there but an hour or two.
Q Then where did you go? A I went back to town.
Q How long did you work there in town? A I don't know exactly how long.
Q A year? A I don't know exactly how long I worked in town.
Q 25 years? A I might not have worked there more than two hours, I don't know.
Q Don't know whether it was an hour or 25 years? A Yes, sir, I do know how long.

McRea: He has answered that he don't know.

Commission: Let him answer the question.

Q About how long? A I worked there two or three different times.

sometimes I would be in town a week and sometimes got but a day or two and sometimes two or three days.

Q Where were you making headquarters, or home? A I made headquarters sometimes out at Bill Belt's and after that I worked for Tom Stonecoal some right on the line of the Cherokee Nation.

Q How long did you say a while ago you had been married? A I said I married in November, '66.

Q How many years did you say that was? A I didn't say nothing about the years.

Q Who married you? A I was married by the clerk.

Q What was his name? A I don't know his name.

Q Clerk of what court? A Clerk of the Court there, at Fort Smith.

Q On the Arkansas side? A Yes, sir.

Q You got a license over there, and he married you? A I think I got license.

Q Now what is your full name? A Sam Barnes is my full name.

Q What is your wife's name? A Her name was Jennie.

Q Jennie what? A Jennie Boland.

Q She is a sister to Martha Albert? A Yes, sir.

Q Younger than Martha? A Yes, sir.

Q Have you ever been married before? A Yes, sir, had been married twice before.

Q Where had you been married? A In Texas.

Q What was your first wife's name? A Anna.

Q She dead? A Yes, sir.

Q What was your second wife's name? A Name was Mandy.

Q What year was it they had that investigation, that Chambers Court you speak of? A That was in '72.

Q Was your wife admitted or rejected? A Must have been rejected by us having to be here.

Q Did you make a statement up there before that Court? A Yes sir.

Q You never saw your wife before the war? A No sir.

McRea: Did you see the mother, Nancy Boland, of your wife and Martha Albert, here in 1866? A I seen her here, yes sir.

Q In the Cherokee Nation? A Yes, sir.

Q Is she living now? A Who is that?

Q The mother, Nancy Boland? A Oh no, she died in '66.

Q Where was she buried? A Buried on this side the river there somewhere.

Q In the Cherokee Nation? A Yes, sir.

Q Did you see the father, Charles Boland I believe was his name? A Yes, sir.

Q In '66 here in the Cherokee Nation? A Yes, sir.

Q Is he alive now? A No, sir, he is dead.

Q When did he die? A He died in '72.

Q Where was he buried? A He is buried on Lees Creek.

Q In the Cherokee Nation? A Yes, sir.

Mr. Hastings: On whose place is Nancy Boland, the mother of Martha Albert and also of your wife, buried; who owns that place now?

A She was buried at what was called the Jack Campbell graveyard, my wife.

Q This Nancy Boland, where is she buried? A She is buried I think at Mrs. Franklin's graveyard.

Q Do you know it? A That is where I was told she was buried.

Q What time did she die? A She died in '66.

Q Spring, summer or fall? before you married or after? A Just before I married.

Q Did you ever see her? A Seen her many a time.

Q In Texas? A No sir, never seen her in Texas.

* * * * * * * * * * * *

Mr. Hastings: Notice is hereby served on the attorney

in the case of Martha Albert and the referred cases, that the Cherokee Nation desires to introduce testimony in them on Friday, the 13th inst., between the hours of eight in the morning and five in the afternoon.

McRea: The applicant will on said date introduce additional testimony in the case at bar.

Commission: This testimony will be filed in the following Cherokee Freedmen cases: D-42, D-146, D-182, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 13th of September, 1901.

Commissioner.

File with case of John Barnes, et al., C.F.-D.#103.

Supl. C.F.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 17, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen, introduced on the part of the Cherokee Nation.

APPEARANCES:
W. W. Hastings, Attorney for Cherokee Nation;
A. S. McRea, Attorney for applicants.

J. W. HUGHES, being duly sworn, testified as follows on part of the Cherokee Nation. BY MR. HASTINGS:

Q What is your name? A J. W. Hughes.
Q Post office? A Ramey.
Q What is your age? A 53.
Q Are you a citizen of the Cherokee Nation? A Well my wife and children are, I wasn't married according to the Cherokee laws.
Q When were you married? A I were marri ed in '69, July, '69.
Q Where did you live that year after you were married? A I lived in the Indian Territory on Joe Purdue's place on Webber creek, in a mile and a half or two mile beyond Big Lees creek.
Q That is in Sequoyah district? A Yes, sir.
Q And about how far from Fort Smith, Arkansas? A Well, accordi ng to the line straight through, about eight miles.
Q Do you know Colly Albert, a colored man? A Yes, sir, I was acquainted with him there.
Q Were you acquainted with his wife, Martha Albert? A Yes, sir.
Q Did you know Martha Albert's father? A Yes, sir, that is what they claimed to be her father.
Q Well, what was his name? A His name was Boldan, I could not tell you what his given name was. He claimed his name was Boldan.
Q Well, he was recognized there as the father of Martha Albert?
A Yes, sir.
Q Did you know Martha Albert's sister, Jennie Barnes?
A Yes, sir, I was well acquaint ed with them, lived in a half mile of them about four years.
Q Did these children do any work for you in these early days, '69 or '70? A Well, in the year of '70 when I was living there on the place they were living a quarter or half a mile below me, I rented a place from Joe Purdue and they were living joining that place, and I hired them to chop cotton for me and also to pcik cotton and work; and do some other work making rails and fixing fence, and I worked there with them two or three years; they worked for me.
Q Did you ever have any talk, or hear any members of this family make any statement as to where they come from and their whereabouts prior to that time? A I have heard Boldan and his daughter, Colly albert's wife, I never have heard Colly speak anything concerning it as I remember at this time.
Q Well, from Boldan or Colly's wife, Albert? A I heard Boldan-

Mr. McRea: I object to anything Boldan said.

Commission: Note the objection and answer the question.

A I heard him saying he was in Texas ; he claimed himself to be part Cherokee, if I mistake not, and that he was not a slave; he claimed that he was not but his wife and children-seems to me he had two children--and they were sold out of here and was carried to Texas by somebody, and I don't remember just who he said carried them away, but the best I remember about it that he had two children, Martha and Jennie, two girls, if I mistake not, as near as I can possibly think of it not at the present, and that he went along for his childrens' sake was what I seemed to understand from his talk,

and that he still lived there until the war closed and moved back, but I never was acquainted with him until '69 or '70.
Q Well, did he say when they went to Texas? A No, sir, I don't remember.
Q Well, as to the war, or before the war? A It must have been before the war.
Q Did he say that his wife and children were sold? A I think he did, I won't be positive about that, but I think he did. I remember one thing he told me, he was mighty jokey and working for me there picking cotton and chopping cotton and talking about his ups and downs down there in Texas, and what makes me think that you know, I asked him you come from down here in Texas and he spoke about his wife and children being sold out, and if I mistake not, he told me before the war they were sold out, I won't be positibe about that, but it seems to me that he did, and then at the close of the war, or after the war a while, he come back, but I don't remember anything about the time, date; I never was acquaint ed with him until '69, we made a crop there that year and how come me to get acquainted with him is what I say, I had rented that place of Joe Purdue's on the creek and we made a crop there that year and I made a crop there in '70.
Q Well, did you ever hear Martha Albert say anything about her whereabouts, where she came from? Well she claimed, if I understand it, she claimed that she come from Texas.
Q Do you remember whether you ever heard Jennie Banres saw anything about where she come from? A I never heard Jennie Barnes say anything about it, she was not about our house, but these others they worked for me a great deal.
Q Do you remember whether Boldan made any statement as to who his wife formerly belonged to up here in this country before the war?
A I just don't remember.

Mr. McRea: I object to that.

Commission. Your objection will be noted.

A It seems t o me that she was a whitmire, I won't be positive about that now

MR. McREA: Mr. Hughes, you say your first acquaintance with Martha Albert and her family was in '69 or '70? A First acquaintance was '69, and in the fall of '69.
Q You knew nothing of them before that? A No, sir, I did not know them before '69, I could not tell you just what time of the year, but it must to have been, the best knowledge I have about it now, was in '69, and what makes me think so I was married in '69, in July.
Q When was the last time you saw Martha Albert? A I suppose it must have been two or three years ago the last time I remember seeing her, two or three years ago.
Q Did you ever give testimony in this matter before?
A I never have, never was called on.

Commission: This testimony will be made a part of the record in the following cases: D.#42, D.#146, D.#182, D.#99, D.#100, D.#101, D.#102, D.#103, D.#104, D.#106, D.#114, D.#150, D.#151, D.#152.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this September 18th, 1931.

Commissioner.

Cherokee Freedmen R-415 to 451
both inclusive

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, April 27, 1905.

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In the matter of the application for the enrollment of Martha Alberty et al. as Cherokee Freedmen.

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It appears from the records of the Commission that on the 11th day of January, 1904, the Commission rendered a decision in the above case, denying all the applicants therein, which decision of the Commission was approved by the Secretary of the Interior on June 21, 1904. It further appears that on March 25, 1905, this application was remanded by the Secretary of the Interior for further hearing.

Now on this, the 27th. day of April, 1905, the applicants appeared in person and by their attorneys, Neal & London. The Cherokee Nation represented by Bell, Hastings & Davenport.

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Witness for applicants.

A. J. Alberty, being duly sworn, testified as follows:

MR. NEAL:

Q What is your name? A A. J. Alberty.
Q Where do you live? A Near Stilwell.
Q How long have you lived in the Cherokee Nation? A I was born there.
Q How old are you? A About 60 years old.
Q You are a Cherokee by blood? A Yes sir.
Q Were you acquainted with Johnson Whitmire before the war? A Yes sir.
Q How far did you live from him before the war? A I guess a couple of miles.
Q Were you acquainted with his slaves? A Yes sir.
Q Do you remember anything about his selling some slaves into Arkansas some time before the war? A Yes sir.
Q To whom did he sell those slaves? A A man by the name of Williams.
Q Do you know whether there was a slave named Nancy sold to that man? A I think so.
Q Do you know this applicant? A Yes sir.
Q Did you know her before the war? A Yes sir.

Q. To whom did she belong previous to the Rebellion. A. Johnson Whitmire.
Q. Was he a Cherokee Indian? A. Yes sir.
Q. Was she sold by Whitmire previous to the Rebellion? A. Yes sir, I think she was.
Q. Do you mean this applicant? A. No sir.
Q. Did he have two slaves by the name of Martha? A. Yes sir, one was called big Martha and the other little Martha.
Q. Which one was sold? A. Big Martha was sold.
Q. Was this one little Martha? A. Yes sir.
Q. Was she sold? A. No sir, the other one was sold to Dillingham.
Q. Do you know who took her out of the Cherokee Nation when the war broke out? A. This one?
Q. Yes? A. I think it was Cornelius Wright.
Q. Was he the boss who took the Whitmire niggers out? A. Yes sir.
Q. Did you, at any time during the waror at the close of the war, see this applicant anywhere, and if so, where? A. A. After the close of the warI was down there in the Choctaw Nation on Red River, and I learned from the Choctaws that there were a lot of refugees there. I looked out for them, and found some of the Whitmire slaves.
Q. Was that in the Choctaw Nation? A. Yes sir.
Q. When was it? A. I think, to the best of my knowledge, that it was in the fall of '65.
Q. Do you know of your own Knowledge when she returned to the Cherokee Nation? A. No sir, I don't.
Q. What was this woman's mother's name? A. She went by the name of Nancy.
Q. What was the name of the pther Martha Whitmire's mother? A. I think her name was Dicy.
Q. Her name was Dicy Whitmire before she was sold by Whitmire? A. Yes sir.
Q Was her name Dicy Whitmire or Dicy Shepherd? A. They always went by the name of their master.

MR. HASTINGS:

Q. When is your birthday? A. I think it was about '43, but I ain't right sure about it.
Q. You have never had a birthday since? A. No sir.
Q. You didn't have one last year? A. Yes, my birthday comes around, I guess.
Q. When was it? A. In August of '43, I think it was.
Q. But you are about 60 years old? A. Yes sir.
Q. Do you remember about the year that Dicy, the mother of Martha, was sold to Dillingham? A. It was two or three years before the war.
Q. Who else was sold at the time dicy was sold to Dillingham? A. There were two or three children.
Q. What were their names? A. One was called Martha.
Q. Where did you live at that time? A. Right up above Whitmire's up in Going Snake District.
Q. Watt Whitmire lived there with his father didn't he? A. If he did he was very young.
Q. You say it was only three or four years before the war? A. Well, I don't know his age.
Q. Who did you get a letter from about a week ago to hunt up testimony in this case? A. I didn't get one from anybody

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Q Did you ever get one from anybody with reference to hunting up testimony in thiscase? A I saw Mr. Rogers.
Q What Mr. Rogers? A That man over there behing Mr. Neal.
Q What interest did he have in the case? A I couldn't tell you. He just asked me to go over there and see if I could find anybody that knew these people.
Q Who did you go to to ask? A Mrs. Susie Walkingstick.
Q What interest did you have in going around over the neighborhood asking people if they knew about the pople in this case? A They had asked me to do it as a favor
Q Didyou have my interest in the case? A No sir.
Q How many slaves did Johnson Whitmire have when the war came up?
A I don't know---- several.
Q Let's have the names of some of them? A One was called Dicy, one ancy, Emma, Rachel. I believe thatis all I know the names of. There were several more, but I don't remember their names.
Q How far did Jack Alberty live from Johnson Whitmire? A About 8 miles.
Q How far did Jeff Tik-nee-sky live from Johnson Whitmire? A About three or four miles.
Q Do you swear that Johnson Whitmire owned this slave and her mother when the war came up? A Of course he owned them.
Q You will swear that? A Of course I will.
Q And he owned her mother at that time? A Yes sir.
Q Was she very old? A Not very.
Q Did she have any more children? A I don't know. I wasn't that well acquainted with her. I was over there a good deal, but I didn't know about her business.
Q Don't you know whether she had any other children besides this Martha? A I don't know.
Q Didn't she have one older than Martha? A I don't know.
Q And didn't she have two younger than Martha? A I don't know
Q But you knew Nancy and Martha? A Yes sir, but I met them out on Red River after peace was made, and that is how I knowed so much about them.
Q You didn't know that she had a brother or any sisters? A She had some brothers I guess.
Q What were their names? A One went by the name of Nelson, one was Aaron, and one was Lewis.
Q Who did they belong to? A I think they were kinder in partnership between Johnson Whitmire and George Whitmire.
Q Did you know the father of Johnson and George Whitmire? A No sir.

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Q He died long before the war, didn't he? A I guess so. I never knew him at all.
Q When did Dillingham get Dicy? A I don't know about that.
Q Who took this applicant and her mother south? A Cornelius Wright.
Q Is that Cale Wright's father? A Yes sir.
Q Then Cale Wright would know about that? A I guess he would.
Q How do you know they went south with Cornelius Wright? A They told me so.
Q How old was this applicant when the war came up? A I could not tell you. I was about 15 years old, and she wasn't as large as me.
Q Was she five years old? A I don't know.
Q Was she three? A I don't know.
Q Was she two? A I have no idea about her age.
Q Do you mean to tell this Commission under oath that you know this particular girl and yet can't tell whether she was 10 or two years of age? A She was over two.

Q What is your best judgment if you are going to tell the truth?
A I guess she was 13 or 14 years old.
Q You say she went south with Cornelius Wright? A Yes sir.
Q Did Cale go with his father? A I don't know whether he did or not.
Q Weren't you in the neighborhood? A No sir, I was a soldier
Q Who was the reputed father of this applicant? A I never knew him.
Q Did you everknow of a free nigger by the nameof Charley Bowland? A No sir.
Q He didn't live around there? A He might have, but I didn't know him.
Q He didn't go over with Dillingham? A I don't know.
Q You would have known it if he had? A I might not have seen them when they left, but just heard of it.
Q You know that Dicey went off with Dillingham? A Yes sir.
Q And she had a child by the name of Martha? A Yes sir.
Q And you swear that this Nancy and her child Martha were living there with Johnson Whitmire in Going Snake District when the war came up? A Yes sir.
Q And yet, you do not know how old she was? A I guess she was 13 or 14 years old.
Q How long waswit immediately before the war that you saw this child at Johnson Whitmire's? A I was around there several times, and I don't know just when was the last time.
Q When was the last time you were at Johnson Whitmire's before the war? A I couldn't tell you that.
Q You must tell us what isyour best judgment. You are under oath now? A In those days I didn't keep any account of my whereabouts. I was a young man, and didn't keep no account.
Q Were you in the country when the war came up? A Yes sir.
Q How long before the war came up was it that you were at Johnson Whitmire's? A Just a short time.
Q How long before the war was it that you saw Nancy at Johnson Whitmire's? A I couldn't tell you.
Q Wast ten years? A It might have been.
Q It might have been 15 years? A It might have been.
Q You are not going to be positive on that point? A No sir.
Q It might have been as much as four or five years before the war that you last saw Nancy and this child at Johnson Whitmire's?
A It might have been a year or six months.
Q When were you at Jeff Tik-nee-sky's you didn't know anything about these people? A Yes I did.
Q Did you tell him that you knew them -- that you knew this applicant's mother? A Yes sir.
Q Did you tell Jeff what you hadbetold on this stand? A I told him that I knew of one being named Nancy, and I told him the other one, I told him of the one that Dillingham took out--that that one was called Dicy and her daughter was called Martha.

MR. NEAL:

Q Didyou go into the army when the war first broke out? A Yes sir.
Q Were you around there until you went off to soldiering? A Yes sir.
Q Then you were in that neighborhood until the war broke out?
A Yes sir.
Q In your cross examination you told Mr. Hastings that it might have been 10 or 15 years or six months that you lived within two miles of Johnson Whitmire and didn't go down there. Do you mean that you lived there that long and didn't go about his

place? A Yes sir.
Q Then you don't know whether you stayed there five years before the war or not? A No, I couldn't tell you how long it was. I was over there now and then.
Q Every four or five years or what? A Maybe every two or three weeks.
Q Were you over there every two or three weeks before the war broke out? A Yes sir, maybe it would be a month.
Q Do you mean to say that before the war broke out you were over there every three or four weeks or every four or five years?
A It was a short time.
Q Were you over there every week or two or every year or two?
A Every week or two.
Q When you said you didn't know how long it was, you meant that you didn't know how many days it was before you went to the army? A Yes sir.
Q Did you see Lancy within a month or six weeks before you went away? A Yes sir, I think so. It has been a long time ago and a man can't remember all of these things. Lots of things have dipped my memory.

MR. HASTINGS:

Q Wasn't Watt Whitmire, being a son of Johnson Whitmire, in a little better position to know what slaves his father had than you were? A I guess he would. He knew them better than I would for he was with them every day.

COMMISSION:

Q When were you last at Johnson Whitmire's before the war broke out? A I couldn't tell you exactly.
Q What is your best judgment? A It might have been two or three weeks or a month.
Q Was it within a short time before the war broke out? A Yes sir.
Q Do you state now as a positive fact that when you were there the last time, that you saw this applicant there? A Yes sir.
Q The last time you were at Johnson Whitmire's before the war she was there. Do you state that as a fact, now? A Yes sir, she was there, but she was never taken out of there.
Q Well, she was there or else she was not? A Yes sir, she was there, but she never was sold out.
Q Were any of the other slaves there? A Yes sir.
Q How often have you seen this witness since the war? A Just one time -- then I saw her yesterday or the day before. I saw her out on Red River before '65.
Q Since '65 up to a couple of days ago you haven't seen her at all
A No sir.

(Witness identifies his signature attached to an affidavit which is shown him).

Q Are you willing to swear now, Mr. Alberty, that this woman, whom you haven't seen for 40 years is the same woman that you saw at Johnson Whitmire's just before the war? A Yes sir, I saw her out on Red River in '65, and she is the same one.
Q And you haven't seen her since until a few days ago? A No sir, I haven't.
Q In January of this year was your attention drawn to the fact

about one Martha Albert --- about four months ago? A Not that I know of.

Q Do you remember this paper that I showed you a while ago?
A Yes sir.
Q Did you read that paper before you signed it? A Yes sir,
Q Four months ago you swore before Mr. Rogers, a Notary Public, that you had known this woman all her life time, and now you state that from the time you saw her down on Red River in '65 until a few days ago you didn't see her at all? A I couldn't see her all the time.
Q It is a fact that you had not seen her since '65 until a few days ago? A Yes sir, I hadn't.
Q Prior to that time you had signed this affidavit, hadn't you?
A Yes sir.

(Reference is made to an affidavit signed by the witness in the case of this applicant, signed on January 10, 1905, before H. L. Rogers, Notary Public, and which is a part of the petition for a rehearing, addressed to the Department of the Interior and to the Honorable Commissioner of Indian Affairs).

MR. NEAL:

I have one other witness, Martha Williams, who is the Martha that was sold by Johnson Whitmire to Dillingham. She lives at Marlton, and we sent a man down after her, and this morning I got a message stating that she is sick, and that a doctor's certificate has been procured. As soon as she is able to travel I would like to bring her up here and take her testimony. The testimony of this witness is important, because she is the Martha that belonged to Johnson Whitmire and who was sold out to Dillingham.

WITNESS EXCUSED.

Martha Albert recalled for additional cross examination.

MR. HASTINGS:

Q What is your name? A Martha Albert now.
Q What was your father's name? A Charley Bowland.
Q What was your mother's name? A Nancy, but she was called Nannie when she was young.
Q How old are you? A I think I am about 60 years old, but I don't know exactly. I am not educated, and can't tell my age exactly.
Q Were you married before the war? A No sir, I was just a little girl.
Q Were you married during the war? A About the last year of the war.
Q Where? A On Red River.
Q Who did you go south to Red River with? A With Cornelius Wright's daughters.
Q Who took them? A Cornelius Wright took them, and there was another lot went along. We all went together, but I was so small that I didn't pay much attention.
Q Did you know any of Cornelius Wright's folks? A Yes sir, I knowed Alf Wright, and aunt Jinnie, and aunt Darcus.
Q Did Cornelius Wright have any children? A Yes sir.
Q What were their names? A I can't tell you, for it has been a long time ago, and I can't remember their names.

Q You can't recall the name of any one he had when the war came up? A I can remember them but I can't remember their names.
Q You can't remember the names of any of them that went south with you? A No sir.
Q Where did Cornelius Wright live when the war came up, and about when you started south? A On the other side of Barren Fork.
Q On which side of Barren Fork was that? A On the north side.
Q How far from Barren Fork? A I didn't go out there and measure it, Mr. Hastings. I was too young.
Q What was Cornelius Wright's wife's name? A Her name was Sarah, I think.
Q Was she living when the war came up? A It seems to me like s she was dead.
Q How long had she been dead when the war came up? A You must recollect that I was a child and don't remember lots of things. You must give me a chance the same as anybody else. You folks didn't give us niggers no education so we could know and remember things like that.
Q About how long before the war did Sarah Wright die? A I don't know.
Q Will you swear that she didn't go south with Cornelius Wright?
A I don'tknow.
Q You are sure her name was Sarah? A I said I thought it was. What did us niggers know abou that. All we could call them was Mistress, and most always that was all we knowed about their names.
Q What was Cornelius Wright's childrens names that went south?
A I don't know.
Q You didn't habe to call them Master and Mistress did you? A Sometimes we did, and then is has been so long ago that I have raised a family myself since then.
Q What was Johnson Whitmire's wife's name? A She was named Tempie.
Q Was she the wife that was living with him when the war came up?
A I think she was, but I wouldn't be positive.
Q You was their slave? A Yes sir, and he had plenty of slaves besides me.
Q How many children did Johnson Whitmire and his wife, Tempie, have? A I will tell you the truth, and I wouldn't swear a lit to get on this roll. I don't know their names -- none but one. I knowed Watt, and that is the only one.
Q You know him because you heard me call his name, and because he was a witness against you in this case. How old was Watt when the war came up? A He was a good sized boy, but I was the largest.
Q If you were a child with them and Johnson Whitmire had some more children, why don't you remember their names? A I just tell you about that. If you had been raised up a slave in the backwoods like us you would not know your playmates' names.
Q The truth of the business is, you weren't there? A Yes sir, I was right there.
Q Did he have a brother named George Whitmire? A Yes sir.
Q What children did George Whitmire have? A He didn't live right there.
Q How far did he live from Johnson Whitmire? A I don't know. I know he lived in the country somewhere.
Q About how far? A I don't know.
Q You never were at George Whitmire's? A I belonged to Johnson Whitmire.
Q You never were at George Whitmire's? A No sir.

Q You don't know whether he had any children or not? A I think he did.
Q You don't know any of Johnson's children but Watt, and you did not know him until he testified against you? A Yes sir, I knowed him before.
Q But you never knew any of the rest of them did you? A I don't know.
Q Where did Johnson Whitmire live when the war came up? A He lived up in Going Snake District.
Q Near what town? A Tahlequah.
Q About how far from Tahlequah? A I don't know.
Q Your best judgment? A I didn't have no judgment about it.
Q You weren't there, were you? A I was born and raised right there on the old Whitmire place.
Q How far is it from Tahlequah? A I don't know.
Q Was it as much as two miles? A I never have measured it.
Q Was it a mile and a half -- what is your best judgment? A It might have been a mile and half or five miles.
Q Is five miles your best judgment? A My best judgment is that I don't know.
Q Is five miles your best judgment? A I don't know how far it was.
Q On what side of Barren Fork did he live? A On the north side.
Q How far did he live from the creek? A I don't know that.
He didn't live so powerful fur, though.
Q Was it five miles? A No, I don't think it was that fur.
Q Right when the war come uphow far did Johnson Whitmire live from Barren Fork? A I guess his old house is sitting there right now, on the north side of Barren Fork.
Q How far from the creek? A I couldn't answer lessen I know.
Q I want to know whether it was a short distance, or how far?
A If I had been a young woman I might have been able to tell you.
Q How old were you? A I must have been about 4 or 5 years old.
Q And yet, you were married the last year of the war? A I was 13 or 14 years old when I married.
Q What became of your mother? A She died.
Q Where did she die? A Down in Sequoyah.
Q Did your father go south with you? A He didn't go with us but he come.
Q You remember seeing him around Johnson Wright's before you went?
A Yes sir, but his home was on Pea Vine.
Q What kind of a house did Johnson Whitmire live in? A I think it was a big log house.
Q Are you certain about that? A No sir, I won't be certain.
Q Did he live on thehill or in the valley? A On the side of the hill.
Q And you were four or five years old? A I suppose I was about that old.
Q You were born in '43 and left in '47? A I don't know. You ask me too tight questions. If I was sold I would say so.
Q How many slaves did Johnson Whitmire have? I mean, when the war came up? A He had old aunt Temptie, Artie, Mose, Celia, Mary, Nancy and me.
Q Did Celia have any children? A No sir.
Q Did Tempie? A She had two.
Q Were they older or younger than you? A Older.
Q Did they have any about your age? A No sir.
Q Did Mary have any children? A Yes sir.
Q What were their names? A One was named Bass and one was named Tom.

Q You don't know how far from Barren Fork Johnson Whitmire lived, though? A No sir.
Q You didn't know any of his children but Watt? A I did know them, but I have forgot their names.
Q You didn't know any of Cornelius Wright's children's names?
A No sir.
Q You do not know the names of any of George Whitmire's children?
A No sir, we didn't belong to George.

COMMISSION:

Q You have some children, haven't you, that you applied for? A Yes sir.
Q Elijah and Ida are two of them? A Yes sir.
Q Who is the father of these children? A Colly Albert.
Q He was a stateman wasn't he? A Yes sir. Old man Bushyhead raised him, but he didn't belong to him.
Q How many times have you been married? A Just the one time.
Q What was your husband's name? A Colly Albert.
Q He doesn't claim any rights as a Cherokee Freedman? A No sir
Q You have a child called Henry? A Yes sir.
Q Has he got some children? A Yes sir.
Q What are their names? A Harry, Raymond, and Louie.
Q Who is themother of those children? A Florence.
Q She is a state woman? A Yes sir.
Q She doesn't claim any rights as a Cherokee freedman? A No sir.
Q You have a girl called Lillie White? A Yes sir.
Q She has some children? A Yes sir.
Q Who was the father of these children? A Henry White.
Q He is a state man? A Yes sir.
Q Have you a child called Nancy Balkam? A Yes sir.
Q Has she any children? A Yes sir.
Q Their father doesn't claim any rights as a Cherokee freedman?
A No sir.
Q Have you a daughter named Malinda? A Yes sir.
Q Has she any children? A Yes sir, six.
Q Does the father of those children claim any rights as a Cherokee freedman? A No sir.
Q Are they all living? A Malinda is dead, but her children are all living.
Q What relation is Jennie Barnes to you? A She is my sister.
Q A full sister? A Yes sir.
Q Did you have the same father andmother? A Yes sir.
Q Is Robert Barnes jennie Barnes' son? A Yes sir.
Q The father of Robert was a state man? A Yes sir.
Q Jennie Barnes had a daughter called Lula Knalls? A Yes sir.
Q And she has two children? A Yes sir.
Q What are their names? A Sarah French and Fred E. Knalls.
Q Was the father of Sarah French a state man? A Yes sir.
Q What about the father of Fred? A He was a state man.
Q Who was the father of R-430? A He was a state man, too.
Q He is dead isn't he? A Yes sir.
Q John Barnes is a son of jennie Barnes, too? A Yes sir.
Q His father was a state man? A Yes sir.
Q The mother of Gussie and John is a state woman? A Yes sir.
Q Sarah Brown has got a child called Maggie Williams? A Yes sir.
Q What is is father's name? A Marcus Williams.
Q He is a state man? A Yes sir.
Q Jennie Barnes had a daughter named Maggie, and Maggie had a son named George L. Bell. Who was the father of this child? A George Smith, or Bell.
Q Is he a state man? A No sir.

Q He was denied as a Cherokee freedman? A Yes sir.

WITNESS EXCUSED.

Witnesses for the nation.

Watt Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Watt Whitmire.
Q What is your post office? A Westville.
Q What is your age? A 53.
Q Are you a Cherokee by blood? A Yes sir.
Q What was your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte.
Q Was your mother living when the war came up? A No sir.
Q How long had she died before the war? A I don't recollect. I was just an infant when she died. I think she died about ten years before the war.
Q Had your father remarried when the war came up? A Yes sir.
Q What was his wife's name then? A Tempie.
Q Did you have any brothers and sisters living when the war came up? A Yes sir, I had one full brother by the name of William, older than me, and then I had some half brothers, named George and Ellis, and a sister named Charlotte.
Q Do you know this applicant that goes by the name of Martha Albert? A If I ever saw her before I don't know it.
Q Did your father own some colored people when the war came up?
A Yes sir.
Q Did he own one called Nancy when the war came up? A No sir.
Q Did your father own this colored applicant, who claims that she is the daughter of Nancy, when the war came up? A There was no Nancy on the place.
Q Did your father own this applicant? A No sir, she wasn't on the place.
Q Were you living with your father when the war came up? A Yes sir.
Q How far were you living from Barren Fork? A Right at two miles.
Q On which side of the creek? A South side.
Q Did you ever live on the north side of Barren Fork? A No sir.
Q Do you know one, Andy Alberty, whose post office is Stilwell?
A Yes sir.
Q He has just testified upon the stand that your father owned a nigger slave by the name of Nancy and this applicant, who was the child of Nancy when the war came up. Was that true? A No sir, he never owned no woman by the name of Nancy.
Q How far did Andy Alberty live from your father when the war came up? A As near as I can guess it, it was 7 or 8 miles.
Q What kind of a house did your father live in? A A double log house.
Q You say your own mother was dead? A Yes sir.
Q Was your stepmother living when the war came up? A Yes sir.
Q What became of your father's slaves? A When father went south we left the women folks all at home. The men had all gone north before we left home. He and my brother, George, were the last ones to leave the place, and we left all the women folks on the place, and after we left they all went north.

Q None that you owned went south? A Not one.
Q Where did you go during the war? A Down on Red River on the Choctaw side.
Q Did you know Cornelius Wright? A Yes sir.
Q Did you know his son, Cale? A Yes sir.
Q How far did they live from you? A Some five or six miles.
Q On what side of Barren Fork? A On the southeast side from us.
Q Did you see them down on Red River during the war? A Yes sir.
Q Did they have some slaves down there? A Yes sir.
Q Did they have a woman by the name of Nancy? A If they did I don't know it.
Q Did you ever see this applicant down there? A No sir.
Q Did you ever see her anywhere before? A No sir, this is the first time I ever saw her.
Q How long were you all and Cornelius Wright's people together in the Choctaw Nation? A I don't know. We moved away and left them there. We moved there in the early fall and left early the next spring, and we left Cornelius Wright's folks living there.
Q They were related to you? A Yes sir.
Q You know that Cornelius Wright didn't have any slave of your father's by the name of Nancy down there? A No sir.
Q Did you ever know the alleged father of this applicant who she said went by the name of Charley Bowland? A No sir.
Q Was he in your neighborhood before the war? A I never heard of him.
Q Did you see him down on Red River during the war? A No sir.

MR. NEAL:

Q You say you and your brother went off and left the women folks there? A Yes sir.
Q You mean the slaves? A Yes sir.
Q You also said that they all went north? A Yes sir.
Q Do you know where they went? A I don't know only what they told me. After the war they told me they went to Fort Scott. One of themen told me that.
Q You don't know, of your own personal knolwedge, where they went?
A No sir, I just have their word.
Q You say that one of the mentold you? A Yes sir, Dick and Mose both told me that the women folks were all in Fort Scott.
Q You said the men folks all went north? A Yes sir, they went north fist -- before we left.
Q All you know about where the women folks went is what Dick and Mose told you, and they left before you did? A Yes sir.
Q You say your father didn't own any slave by the name of Nancy?
A No sir.
Q Did he own one by the name of Annie? A Yes sir, there was a little girl by the nameof Nannie.
Q How old do you say you are? A 53.
Q That would make you how old when the war broke out? A Between 9 and 10.
Q You were acquainted with all of your father's slaves, were you?
A Yes sir.
Q Knew all of the children? A Yes sir.
Q How many children did Rabbel have? A 3 or 4--I don't know just exactly whether it was 3 or 4.
Q How many children did Sookie have? A There was Charlotte, Lisa, Ibby, and Mary.
Q There was a slave there named Frank? A Yes sir, but I have forget which woman was her mother.

Q How many children did Fronie have? A One.
Q Of your knowledge, you don't know where your father's slaves went? A Not only what they told me. They told me they went north.
Q You never have seen any of the woman folks since then? A Not since the war.
Q You don't know where they are now, do you? A Not for certain. I never have spoken to any of them since that time have been right to their houses.
Q You never have spoken to one of the negro women that belonged to your father, since the war? A No sir.
Q The only slaves of of your father's that you have seen are Mose and Dick? A Yes sir.
Q How many slaves did your father have when the war broke out?
A I would have to count them up.
Q About how many? A I guess there were 18 or 20, children and all.
Q You have named four children of Rachel's ---A As well as I recollect, I said there were that many.
Q Five of Sookie's? A Yes sir.
Q And one of Fronie's? A Yes sir.
Q How many more children were there? A There was one by the name of Charlotte that had one or two children I think.
Q Do you think that, being only 9 or 10 years old, you would recognize a woman 55 or 60 years old who was a girl at the outbreak of the war? A I guess not.
Q Then you don't know anything about Martha Albert-- anything about who she is, or anything about her? A No sir.
Q If she belonged to your father you don't know it? A No sir.

MR. HASTINGS:

Q You know your father didn't have a grown woman, with children, by the name of Nancy when the war came up? A No sir, he didn't.

COMMISSION:

Q You have testified in this case once before? A Yes sir.
Q Are you the Watt Whitmire that testified at Fort Gibson in 1901?
A Yes sir.
Q Do you know this man, Dillingham? A No sir, I have heard of him frequently.
Q Did he live in your neighborhood? A I think not? I have heard my father speak of him.
Q You do not know how near he lived to your home, do you? A No sir, I know the place they say he lived on.
Q You know this Andy Alberty that testified here awhile ago? A Yes sir.
Q Did you know him before the war? A No sir.
Q When was the first time you ever knew him? A Since the war I got acquainted with him.
Q You don't know whether he was in the habit of visiting your father's house or not? A No sir.
Q Your mother's name was Lottie? A Charlotte.
Q You belonged to the second marriage? A No, the first.

MR. NEAL:

Q How long before the war was it that your father married Tempie?
A I don't recollect just when it was. I was a boy up and running around, I guess two or three or four years old. It was anyway three or four years before the war.
Q You were about 9 or 10 when the war broke out? A Yes sir.

MR. HASTINGS:

Q Was there any other Johnson Whitmire living around there before the war? A No sir.

COMMISSION:

Q Do you know what year it was that you went to Red River? A No sir, I don't.
Q What is your best judgment as to what year it was? A It would have to be a right about guess? A I guess it was the second year of the war.
Q Do you remember distinctly about going to the Choctaw Nation?
A Yes sir.
Q You remember the trip down there, and the people you met down there? A Yes sir.

WITNESS EXCUSED.

Cale Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Cale Wright.
Q Where do you live? A Tahlequah.
Q How old are you? A I am 59.
Q What was your father's name? A Cornelius Wright.
Q Were you living with your father when the war came on? A Yes sir.
Q Where? A About 3 or 4 miles west of Dutch Mills, on the Cherokee side.
Q What District? A Going Snake.
Q How far from Barren Fork? A About two and a half miles, I guess.
Q Where did your father go during the war? A South.
Q Did you go with him? A I didn't exactly start with him, but I got with him at Fort Smith when he was on the way.
Q Did you continue on the trip with him? A Yes sir.
Q Did you continue on the trip with him? A Yes sir.
Q Where did you go to? A The first place we stopped at was Armstrong's Academy in the Choctaw Nation, then we moved from there down to 10 miles south of Doaksville, near Red River.
Q Do you know this applicant, Martha Albert? A No.
Q She has testified that she and her mother, Nancy went south with your father during the war, and that her mother, Nancy, belonged to Johnson Whitmire, as well as herself, at the beginning of the war. Is that true? Did Nancy Whitmire, who had one or two children, go with with your father? A They were not with them when they came up with [illegible].
Q Did they have a Nancy Whitmire anywhere on that trip? A No sir.
Q Were you ever about Johnson Whitmire's place before the war?
A Yes sir, I boarded there and went to school two sessions.
Q And you lived in his neighborhood? A Yes sir. Within five miles.
Q Did Johnson Whitmire have some slaves? A Yes sir.
Q Did he have a slave by the name of Nancy who had some children when the war came? A No sir. I never heard of that name while I was there going to school.
Q You live in the same neighborhood? A Yes sir.
Q You were related to Johnson Whitmire? A I suppose we were distantly related, but I don't know just how much.
Q You don't know any degree of relationship? A No sir.

Q Did you ever see this applicant down south after the war or during the war? A I am just looking at her. Let me talk to her some, and see.
Q Are you satisfied from the conversation that you have had with her, that she was with your father down south? A No, she could not have been.
Q Did you know this Andy Alberty? A Yes sir.
Q How far did he live from Johnson Whitmire before the war? A It must have been 8 miles, across the mountain.
Q You swear positively that your father did not have a woman by the name of Nancy, and her child, that belonged to Johnson Whitmire, down on Red River during the war? A No sir.

Applicant to witness--- Was Arthur with you? A No.
Q Was Rose? A Yes, there was a Rose -- Lucindy's daughter.
Q Was Jinnie with you? A Jinnie died in '61.

MR. HASTINGS:

Q You know that no Nancy Whitmire went south with your father?
A No sir.

MR. NEAL:

Q You said just now that you judge from your conversation with the applicant, that she could not have been with your father down there? A No sir, she couldn't.
Q The reason that you say she was not with your father is because she desn't seem to know enough about the people? A That is it.
Q Upon that you base your judgment? A Yes sir.
Q There were a good many slaves that went with your father down there? A Yes sir, several.
Q Did any of the Whitmire niggers go with your father? A No. The Whitmires went out there themselves and we all went to ourselves, and at last we all got into the same neighborhood before we started back.
Q You didn't go out of the Territory at all? A No, we stopped on the north side of the river in the Choctaw Nation.
Q You say that you boraded at Johnson Whitmire's and went to school, and you say he had no slave named Nancy-- name some of his slaves --- A You call them off.
Q I want you to call them off? A He had Hannah, Myra, Fronie, Rachel, Ibby, Mary, and there might have been some young ones, but these are the older ones.
Q Didn't he have one named Jane? A Not that I know of.
Q Didn't he have one named Mattie? A No.
Q Didn't he have one named Nannie? A Well, I don't know, but if he did she must have been might small.
Q Didn't he have one named Sookie? A Yes, there was one named Sookie.
Q Do you know the names of any of the men? A Yes, there was Dick, Mose, Mike, Frank, and Mark.
Q What was Johnson Whitmire's wife's name when the war came up?
A Her name was Tempie.
Q Were you acquainted with his first wife? A No, she was dead long before I could remember her.
Q How old were you when you boarded there? A It was along in '50. I was a good big chap.
Q You remember the names of all of those slaves by having boarded there? A Yes sir.
Q How far did you live from there? A About 5 miles, I reckon. In our country we had what we called bridle ways that were nearer, but it was about 5 miles around.

MR. HASTINGS:

Q. Did you mean in the year '50 or between '50 and '60? A. Yes sir, that is it-- between '50 and '60.
Q. About how long before the war? A. I couldn't tell that. The was broke out in '61, and it must have been three or four years before the war.
Q. Were you there frequently besides boarding there? A. Yes Sir.

MR. NEAL:

Q. You said when you were south of the Red River that the Whitmire folks got into the same neighborhood? A. Yes sir.
Q. And some of the slaves were there? A. Yes sir.
Q. Old man Johnson Whitmire didn't carry out any slaves? A. I think George had a slave or two.
Q. You say that none of Johnson'Whitmire's slaves were there? A. No, they all went north.

COMMISSION:

Q. Have you ever seen this woman before, to your knowledge? A. No sir, I don't know anything about her.
Q. How far do you live from Melvin? A. I live up to Tahlequah, and I don't know just how far it is.
Q. Do you know any of these applicants?--- any of this woman's children? A. No sir.

WITNESS EXCUSED.

J. W. Alberty, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. J. W. Alberty.
Q. What is your post office? A. Westville.
Q. How old are you? A. Well sir, I will be 71 years old the 26th day of July.
Q. This is the case of Martha Albert, in which you have given testimony before? A. Yes sir.
Q. You knew Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. Six or seven miles.
Q. You testified about the sale of some slaves to a man by the name of Dillingham? A. Yes sir.
Q. About when did he sell them to Dillingham? A. It was either in '47 or '48.
Q. Do you know this applicant here? A. No sir.
Q. She has testified that her mother was named Nancy and that her father was named Charley Bowland. Did you know the Nancy, the alleged wife of Charley Bowland? A. Yes sir.
Q. Who did she belong to? A. Old man Dillingham moved to Texas and took this family with him.
Q. To whom did she previously belong? A. To Johnson Whitmire.
Q. And Dillingham acquired her from Johnson Whitmire in the year of 1847 or 1848? A. Yes sir.
Q. Are you certain that her name was Nancy? A. Yes sir.
Q. What became of Charley Bowland? A. He went with Dillingham.
Q. Do you know whether Nancy had some children? A. She had two or three.
Q. You don't know whether this applicant was one of them or not? A. No sir.

Q. Did Johnson Whitmire have a grown slave by the name of Nancy when the war came up? A. No sir, not that I know of.
Q. You were familiar with him? A. Yes sir.
Q. Are you prepared to say that Charley Bowland was not in that country when the war came up? A. Yes sir.
Q. Do you know Andy Alberty? A. Yes sir.
Q. Is he a relative of yours? A. Yes sir.
Q. Where did he live before the war? A. He lived right close to Oak Grove school house.
Q. How far from Johnson Whitmire's? A. Between 7 and 8 miles.
Q. Then Nancy, the wife of Charley Bowland, was taken south? A. Yes sir.
Q. What was the citizenship of Dillingham? A. He wasn't no citizen at all, he was just a white man.
Q. Well, he was a United States citizen? A. Yes sir.
Q. Where did he live in '49 or '50? A. Before he went to Texas he lived in Arkansas.

MR. NEAL:

Q. You lived closer to Dillingham than you did to Johnson Whitmire didn't you? A. Yes sir.
Q. You were better acquainted with Dillingham's slaves that you were with Johnson Whitmire's? A. Yes sir.
Q. You knew more about this woman after Dillingham bought her than you did when she belonged to Johnson Whitmire? A. Yes sir.

WITNESS EXCUSED.

Jeff Catcher (Tik-nee-sky), being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Jeff Catcher.
Q. What is your post office? A. Stilwell.
Q. How old are you? A. I was 65 the 15th day of last month.
Q. Are you a Cherokee citizen? A. Yes sir.
Q. You are also known as Jeff Tik-nee-sky? A. Yes sir, that is my Cherokee name.
Q. Where did you live before the war? A. In Going Snake District, on Pea Vine.
Q. Close to where you live now? A. About 300 yards west of where i live now.
Q. Did you know Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. It was about three quarters of a mile, I reakon, maybe a leetle over.
Q. Were you a soldier in the army? A. Yes sir.
Q. You were about grown when the war came up? A. Yes sir.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman slave by the name of Nancy, who had some children, when the war came up? A. No sir, I don't recollect one by that name.
Q. Were you frequently at his house? A. Pretty near all the time. Once a week, anyhow, I was there pretty much all the time.
Q. Do you know this applicant, who gives her name as Martha Albert? A. No sir.
Q. Did you ever see her before? A. No sir.
Q. Did you know a white man that lived across the line by the name of Dillingham before the war? A. No, I never saw him, but I

have heard him talked of a good deal.

Q. You were too small to remember him? A. Yes sir, but I have heard of him.

Q. You don't know whether he bought some slaves of Johnson Whitmire or not? A. I don't know. He didn't after I got big enough to recollect.

Q. Did Johnson Whitmire, when the war came up, have a woman by the name of Nancy? A. No sir.

Q. What army were you in? A. The Federal army.

Q. Do you know Andy Alberty? He just testified here awhile ago? A. Yes sir.

Q. How far did he live from Johnson Whitmire? A. Between 7 and 8 miles.

Q. Did you know a free colored man in that country by the name of Charley Bowland? A. I have heard of him, but I don't recollect him.

Q. He wasn't there just before the war? A. No sir.

MR. NEAL:

Q. You say that you don't remember a woman named Nancy that belonged to Johnson Whitmire? A. No sir.

Q. You don't mean to say that he didn't have one by that name, but that you just don't remember her? A. If he had one it must have been a small child, for I know all the old ones. I think I can name all the old ones.

Q. Name them? A. The old women that I knew was Myra, Em, Sookie, Hannah, Rachel, Fronie, Mary, Charlotte, and the balance were small and I don't recollect their names.

MR. HASTINGS:

Q. Was Andy Alberty over to see you lately to see about this case? A. Yes sir, last Sunday.

Q. What did he say to you? A. He asked me if I knew of Mr. Whitmire having a woman by the name of Nancy.

Q. What did he say about it? A. He didn't say that he knew anything about it. He just wanted to find somebody that knew them.

Q. Did he say that he knew one at that time by the name of Nancy? A. He didn't say whether he did or not. He just wanted to find somebody that did know her. I told him that I didn't think Johnson Whitmire owned any nigger by that name.

Q. That is the same Andy Alberty that you saw out there in the hall who has just testified here? A. Yes sir.

MR. NEAL:

Q. As soon as Mr. Alberty told you that he wanted to get witnesses who knew this woman who did you go and tell about it? A. I told him that there was an old woman up there, Susie Walkingstick, and that if anybody would know about it she would for she was older than I was. I said, for my part, I didn't know anything about it. Afterwards, I saw him and told him that what I knew was not in his favor, but would go against him, for I was there and knew all about his niggers.

Q. You sent him around to see Susie Walkingstick, and told him that if he owned one by that name it was before you could remember? A. Yes sir.

Q. And then you chased out to see if they wanted witnesses for the Nation. A. No sir.

COMMISSION:

Q. How big a place did Johnson Whitmire have? A. About 75 acres in cultivation.
Q. About how many slaves did he have at the beginning of the war? A. He must have had 15 or 20.
Q. Was that the only place he had in the Cherokee Nation? A. Yes sir.
Q. Did he have a plantation anywhere else? A. Nothing only a cattle ranch down about Webbers Falls. He and his brother George had a ranch together. They both owned slaves.
Q. He didn't have any female niggers down at the ranch? A. no sir.
Q. You are positive that those are the only two places he had. A. Yes sir.

WITNESS EXCUSED.

Charlotte Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charlotte Wright.
Q. What is your post office? A. Christie.
Q. How old are you? A. 58.
Q. What was your maiden name? A. Whitmire.
Q. Who was your father? A. George Whitmire.
Q. What relation was he to Johnson Whitmire? A. A brother.
Q. Where did you live before the war? A. I lived on Barren Fork. West of the Barren Fork station and east of Christie.
Q. How far from where you living now? A. About a mile and a half.
Q. You have lived there all your life? A. Except when I was south during the war.
Q. Did you go south? A. Yes sir, we were gone four years.
Q. Where did you go? A. To Red River -- near Bonham only we were on the Choctaw side.
Q. Did you know Cornelius Wright before the war? A. Yes sir.
Q. Did you see him down on Red River? A. Yes sir.
Q. Do you know Cale Wright? A. Yes sir.
Q. You saw these people down south during the war? A. Yes sir, we got to be neighbors down there.
Q. Did Johnson Whitmire have some slaves before the war? A. Yes sir.
Q. Do you know this applicant here? A. I don't recognize her.
Q. Did Johnson Whitmire have a grown woman slave by the name of Nancy when the war came up? A. I don't remember her.
Q. Was there a free colored man in the neighborhood, by the name of Charley Bowland, when the war came up? A. I never heard of it.
Q. This applicant gives her mother's name as Nancy and her father's name as Charley Bowland? A. I never know them.
Q. Do you state that Johnson Whitmire had any slave by the name of Nancy, who had some children, when the war came up? A. If he did I don't know it.
Q. He was your uncle? A. Yes sir.
Q. Were you frequently at his house? A. yes sir.
Q. How far did your father live from him? A. I guess it was 5 or 6 miles.
Q. You lived in the same neighborhood? A. Yes sir.
Q. And you were frequently at your uncle's place? A. Yes sir.
Q. Would you stay any length of time? A. As long as a week.
Q. You knew his family and slaves? A. Yes sir.

Q. They never had one by the name of Nancy that you know of? A. No sir.
Q. Did you see any slaves down south with Cornelius Wright, and among them one names Nancy who claimed to belong to your uncle Johnson before the war? A. No sir, none of his slaves went south that I know of. They all left him.
Q. You didn't see any down there that claimed to have belonged to him? A. No sir.
Q. You do not remember to have ever seen this applicant before? A. No sir.

MR. NEAL:

Q. You have not seen any of Johnson Whitmire's female slaves since the war, have you? A. No sir.
Q. You probably wouldn't remember a girl that was 4 or 5 years old? A. I think I would recognize her. I could be mistaken, but I think I would recognize her.
Q. How old were you when the war broke out? A. I was 14 years old when we had to leave home.
Q. You say that if Johnson Whitmire had a slave by the name of Nancy, you don't know anything about it? A. No sir.
Q. You don't know that he didn't have one by that name, but you just don't know about it? A. I never saw one by that name on the place, and I don't think he had one by that name. I don't recollect anything about it, and never heard anything about it.
Q. You don't know positively that he didn't have one by that name? A. No sir, he didn't have one by that name that I knew of. He didn't have one at home, and I don't think he had any away from home. I never heard of it if he did. But I know there was no one on the place by that name.

WITNESS EXCUSED.

Charles Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charles Whitmire.
Q. What is your post office? A. Proctor.
Q. How old are you? A. 56 I reckon.
Q. Are you younger than your sister, Mrs. Wright? A. yes sir.
Q. She was your sister? A. Yes sir, she was always recognized as my sister.
Q. You are the son of George Whitmire? A. Yes sir.
Q. Johnson Whitmire was your uncle? A. Yes sir.
Q. Do you remember Johnson Whitmire before the war? A. Yes sir.
Q. About how old were you when the war came up? A. I couldn't tell you -- 12 or 14 I guess.
Q. Were you about Johnson Whitmire's frequently? A. Yes sir, I stayed there a right smart and went to school from his house.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman slave who had some children, by the name of Nancy, when the war came up? A. Not that I remember.
Q. Well, if he had had one that was old enough to be, and was the mother of some children would you have known it? A. Yes sir, I think I knowed all of the older ones.
Q. You didn't know one by the name of Nancy? A. No sir.
Q. Do you know this applicant here? A. No sir.
Q. Did you ever see her before? A. Not that I remember.
Q. Did you ever know a free colored person by the name of Charley

Bowland in that country? A. No sir.
Q. Then, of course, you never knew his wife, Nancy? A. No sir.
Q. Did you say that stayed at Johnson Whitmire's and went to school? A. Yes sir.
Q. Do you know Johnson Whitmire's wife and family? A. Yes sir.
Q. Is Watt one of the children? A. Yes sir.
Q. Where did you go during the war? A. I went south to Red River.
Q. Did you know Cornelius Wright? A. Yes sir.
Q. Did you see him down there? A. Yes sir.
Q. Was he Cale Wright's father? A. Yes sir.
Q. Did he carry any of Johnson Whitmire's slaves down south with him? A. No sir.
Q. It has been sworn that he took some of Johnson Whitmire's slaves and among them was this woman, Nancy, and this applicant. Is that true? A. If he did, he didn't have them when we got to where they were.
Q. You were not old enough to know a white man by the name of Dillingham, were you? A. No sir.

MR. NEAL:

Q. How old did you say you are? A. 56 if I am not mistaken.
Q. You are older than your sister? A. No sir.
Q. Who else was boarding down there and going to school? A. Nobody but me and his boy went to school. Sometimes Aunt Tempie had two sisters who stayed there and went to school.
Q. When were you there? A. I don't know.
Q. Were you there off and on for four or five years before the war? A. I don't know.
Q. Did you stay there for more than one year? A. I went from there for two or three sessions.
Q. You never happened to be there when anybody else was boarding there? A. I was there when Aunt Tempie's sisters were there. I don't remember anybody else.
Q. How many years before the war was it? A. I am not able to tell you what year it was. I stayed at home some, and then I didn't get to go to school but very little.
Q. Your cousin, Cale, boarded down there and went to school didn't he? A. I couldn't say whether he did or not. If he went to school from there when I did I don't remember it.
Q. You said that you were of the opinion that Johnson Whitmire had no slave by the name of Nancy who was old enough to have children at that time? A. No sir.
Q. If he did you don't remember it? A. No sir, I don't remember ever hearing that name called.
Q. You never knew her if she was there? A. No sir, I don't remember any of the folks on the place calling one by that name.

MR. HASTINGS:

Q. If there had been one there by that name would you have known it? A. Yes sir.

MR. NEAL:

Q. You would remember it all these years, would you? A. I don't know, but I think I would. I remember the names of all of the older ones.

COMMISSION:

Q. Where was this school? A. On Barren Fork, on Pea Vine.

Q. How far from Johnson Whitmire's? A. About a mile and a half.
Q. Who had this school? A. An old missionary lady taught the school. I don't remember her name.
Q. Was it a kind of a convent school? A. It was kept up by the Cherokee Nation. It was a public school.
Q. How far away was the nearest school to it? A. I couldn't say positively just how far away. I expect it was 8 miles. I wouldn't be positive, but I expect it was that far.
Q. Was Johnson Whitmire in the habit of taking boarders to attend school? A. Yes sir, and so did my father.
Q. You were conveniant to the school, and the people from the neighboring vicinity sent their children over there to board and go to school? A. Yes sir.

MR. NEAL:

Q. You say your father kept boarders? A. Yes sir.
Q. How did it happen that you didn't board at home? A. My uncle had a boy, and had nobody to go to school with him, so I was sent over to go to school with this boy.
Q. How near did your father live to the school? A. About four miles, but he built a house about three quarters of a mile from the schoolhouse where he kept the teacher and boarders.

WITNESS EXCUSED.

(Mr. Neal -- I would like that the case be held open until I can introduce one other witness, the Martha Williams who was actually sold to Dillingham, and if I can get her, I will bring Susie Walkingstick.

By consent and agreement, this case is continued to May 11, 1905, at 1:30 o'clock, P.M.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 27th. day of April, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

(Signed) Eula Jeanes Branson.

Subscribed and sworn to before me this 29th day of April, 1905.

(Signed) Myron White,
Notary Public.

I, Estelle Sommour, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she made the above and foregoing copy; and that the same is a true and complete copy of the original transcript.

Subscribed and sworn to before me this 16th day of May, 1908.

Notary Public.

FILED
COMMISSION TO THE FIVE TRIBES

Cherokee Freedman-R-418 to
431, inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, May 11, 1905.

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In the matter of the application for the enrollment of Martha Albert at al. as Cherokee Freedmen.

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Neal & London, attorneys for applicants.

Bell, Hastings & Davenport, attorneys for the Cherokee Nation.

C O M M I S S I O N.

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On this, the 11th. day of May, this cause coming on to be heard, the applicants appear neither in person nor by attorney. The Cherokee Nation, represented by W. W. Hastings, introduces the following testimony:

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Aaron Whitmire, being duly sworn, testified as follows on behalf of the Cherokee Nation:

MR. HASTINGS:

Q? Your name is Aaron Whitmire? A. Yes sir.
Q. You are a freedman citizen of the Cherokee Nation? A. Yes sir.
Q. How old are you? A. About 69.
Q. To whom did you belong when the war came up? A. George Whitmire.
Q. What relation was George to Johnson Whitmire? A. They were brothers.
Q. How far apart did they live? A. About four miles, when the war come up.
Q. In what District? A. Going Snake.
Q. Did they use to live together? A. Yes sir, till they married.
Q. Were you familiar with Johnson Whitmire's slaves? A. Yes sir
Q. Did you ever know a slave that he had there by the name of Nancy who had Charley Bowland, a free colored man, for her husband? A Yes sir.
Q. What became of Nancy? A. She was sold to a man by the name of Dillingham.
Q. What was Dillingham's citizenship? A. A citizen of the United States.

Q. Where did he live? A. Right on the line of -- or close to the line of Arkansas.
Q. Did this Nancy have any children when she was sold? A. I think she had one, is all I recollect.
Q. What was that child's name? A. Martha.
Q. Now, I refer to the Nancy who had a husband by the name of Charley Bowland, a free colored man? A. Yes sir, and so do I
Q. About how long before the war was it that she was sold to Dillingham? A. As near as I can recollect, it must have been 8 or 10 years or more.
Q. Did Dillingham continue to live over there in Arkansas till the war come up? A. No sir.
Q. What became of him? A. He went to Texas before the war come up.
Q. Aaron, it has been alleged here that Johnson Whitmire had another Martha whose mother was Dicy, and that Dicy and that Martha were sold instead of this Martha and Nancy. Did he have another woman by the name of Dicy? A. Yes sir.
Q. Did he have her when the war come up? A. No sir, she was dead.
Q. Did he sell her to Dillingham? A. No sir.
Q. When did she die? A. Before the war, and before Nancy was sold.
Q. Did Dicy have any children? A. One.
Q. What was its name? A. Cinthy.
Q. What became of Cinthy? A. She was sold to a man by the name of Russell who lived in Arkansas.
Q. About how long before the war was she sold? A. 6 or 8 years.
Q. Did Johnson Whitmire have any other Dicy? A. No sir, never did.
Q. Did you ever hear of his selling a Dicy to Dillingham? A. No sir.
Q. Did you ever hear of his selling a little girl by the name of Martha, besides this one? A. No sir, this was the only Martha on the place.
Q. Did he have a Martha when the war came up? A. No sir.
Q. Did you ever see the applicant who gives her name as Martha Albert, who is the wife of Collie Albert? A. I haven't seen her since she was sold.
Q. Did Charley Bowland go to Texas? A. Yes sir.
Q. Was he in the Going Snake country when the war came up? A. No sir. I never did see him after he went to Texas.
Q. What became of Johnson Whitmire's slaves? Did any of them go to Texas? A. No sir.
Q. What became of his women slaves? A. They went north.
Q. Who took them north? A. They went off with the soldiers.
Q. How long did you remain up there at the old Whitmire place? A. Till '64.
Q. Then you went to Kansas? A. Yes sir.
Q. Had all of Johnson Whitmire's slaves gone off north with the soldiers? A. All but two, and they were with me. They were two very old women -- Amy and Myra.
Q. Had Cornelius Wright gone south? A. Yes sir.
Q. He took his slaves with him? A. Yes sir.
Q. Did Johnson Whitmire have any other Nancy or Nannie/other than the one he sold to Dillingham? A. Yes sir, he had a little girl called Nannie.
Q. Who was her mother? A. Bonny.
Q. What was Bonny's name? A. Smith.
Q. What was her husband's name? A. Rose Smith. He is dead.
Q. Where does she live? A. Up here on Big Creek in Coowescoowee District.

Dillingham

Q. How many slaves did Johnson Whitmire have at the beginning of the war? A. He had some 20 or 25.
Q. Can you give their names? A. I could name the old ones.
Q. Give me the names? A. The first old woman was Amy, Myra, Hannah, Sookey, Kizzy, Mike, Dick, Martin, Mose, Saphronie, Rachel, Charlotte, Liza, Aby, Frank, Nannie. That is about all I can recollect.
Q. These are all the older ones? A. Yes sir.
Q. The younger ones you do not remember? A. I cannot recollect them.
Q. How many of these slaves do you know of that are living now, of these 15 or 16 you have just named? A. I don't know of but two that are living.
Q Where are they? A. Up on Big Creek.
Q. What are their names? A. Nannie Smith and Frank Whitmire.
Q. Where does Frank live? A. On Big Creek.
Q. How old a man is he? A. I don't know just how old a man he is -- right at 60 I guess.
Q Do you know Martha Williams? A. No sir.
Q. Are you positive now that at the breaking out of the war, Johnson Whitmire did not have a slave by the name of Martha? A. Yes sir.
Q. Do you know whether he had a child slave by that name? A. No sir, there was not one by the name of Martha.
Q. You know that of your own knowledge? A. Yes sir.
Q. You mentioned in your testimony about a Nancy who had a daughter called Martha, and that they were sold to Dillingham. Have you ever seen them since that time? A. I never have.
Q. Do you know who this applicant is -- have you seen her? A. I don't know that I would know Martha if I saw her.
Q. How far do you live from Fort Smith? A. I live away up near the Kansas line.
Q. Did you say you knew Charley Bowland? A. Well.
Q. Was he a free colored person? A. Yes sir.
Q. And you know that he married one of Johnson Whitmire's slaves named Nancy? A. Yes sir.
Q. You cannot be mistaken about that? A. No sir.

WITNESS EXCUSED.

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COMMISSION:

After the introduction of the above testimony by the Cherokee Nation, the attorneys for the applicants appeared, by their stenographer, Miss Sorenson, and filed with the Commission a motion for continuance.

MR. HASTINGS:

The attorneys for the Cherokee Nation object to the motion for continuance, filed in this case, for a number of reasons, to-wit:

FIRST: --- This case has been continued a number of times upon motion and at the request of the applicants;

SECOND: --- The motion for continuance is not sworn to:

THIRD: --- The motion for continuance does not set up what is expect-

ed to be proven by the said Martha Williams, but only states that she is an important witness, and does not state what is expected to be proven by her, so that the Commission can pass upon the materiality and admissability of the testimony.

FOURTH: --- Because the certificate of the attending physician is not sworn to.

CONCLUSION:

The motion for continuance will be taken under advisement, and the attorneys will be notified by mail.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 15th day of May, 1908, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson

Subscribed and sworn to before me this the 18th day of May, 1908.

W. S. Hutchins
Notary Public.

FILED
MAY
COMMISSION TO THE FIVE TRIBES

COPY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Martha Albert, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

| | | |
|---|---|---|
| Martha Albert, et al., | Cherokee Freedmen | D- 42 |
| Robert Barnes, | Cherokee Freedmen | D- 99 |
| Lula Knalls, et al., | Cherokee Freedmen | D-100 |
| Nancy Berkum, et al., | Cherokee Freedmen | D-101 |
| Henry Albert, et al., | Cherokee Freedmen | D-102 |
| John Barnes, et al., | Cherokee Freedmen | D-103 |
| Jerry Albert, | Cherokee Freedmen | D-104 |
| Lillie White, et al., | Cherokee Freedmen | D-105 |
| Malinda McLain, et al., | Cherokee Freedmen | D-114 |
| Frank Gardner, | Cherokee Freedmen | D-146 |
| Joshua Barnes, | Cherokee Freedmen | D-150 |
| Sarah Brown, et al., | Cherokee Freedmen | D-151 |
| Minnie Barnes, | Cherokee Freedmen | D-152 |
| Maggie Bell, et al., | Cherokee Freedmen | D-182 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Martha Albert, for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls, for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Berkum, for herself and minor children, Annie and Walter Berkum; by Henry Albert, for himself and minor children, Harry and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes for himself and minor child, Gussie A. Barnes; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert, for himself; by Lillie White, for herself and minor children, Mattie and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Annie White; by Charles McLain, for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jeannette McLain; by Frank Gardner, for himself; by Joshua Barnes, for himself; by Sarah Brown, for herself and minor child, Maggie Williams; by Minnie Barnes, for herself; by George S. Bell, for his wife, Maggie Bell; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell.

The evidence shows that the applicant, Martha Albert, and her sister, Jennie Barnes, now deceased, were not slaves of Cherokee citizens or free colored persons residing in the Cherokee Nation at the commencement of the war of the rebellion. All the other applicants herein have been born since the commencement of the rebellion and are descendants of and claim right to enrollment through either the said Martha Albert or Jennie Barnes.

None of the names of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain , Turner McLain, Jennette McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee Freedmen, should be denied under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

T. B. Needles.

W. E. Stanley.

Muskogee, Indian Territory,

this JAN 11 1904

A. F. Mc.
D. C. L.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Martha Albert, et al., as Cherokee freedmen, consolidating the applications of:

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|---|---|---|---|
| Martha Albert et al., | Cherokee Freedmen | (D 42) | R 414 |
| Robert Barnes, | " " | (D 99) | R 419 |
| Lula Knalls et al., | " " | (D 100) | R 420 |
| Nancy Berkum et al., | " " | (D 101) | R 425 |
| Henry Albert et al., | " " | (D 102) | R 421 |
| John Barnes et al., | " " | (D 103) | R 422 |
| Jerry Albert | " " | (D 104) | R 423 |
| Lillie White et al., | " " | (D 105) | R 424 |
| Malinda McLain et al., | " " | (D 114) | R 426 |
| Frank Gardner | " " | (D 148) | R 430 |
| Joshua Barnes | " " | (D 150) | R 427 |
| Sarah Brown et al., | " " | (D 151) | R 428 |
| Minnie Barnes | " " | (D 152) | R 429 |
| Maggie Bell et al., | " " | (D 162) | R 431. |

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D E C I S I O N.

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee freedmen were made to the Commission to the Five Civilized Tribes by Martha Albert for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and minor children, Sarah French and Fred R. Knalls; by Nancy Berkum for herself and minor children, Annie and Walter Berkum; by Henry Albert for himself and minor

children, Harry and Raymond Albert, thereafter, on October 31, 1902, there was filed with the Commission an affidavit showing the birth, on June 4, 1902, of Lewey Albert, son of the applicant, Henry Albert; by John Barnes for himself and minor child, Gussie A. Barnes, thereafter, on August 20, 1902, there was filed with the Commission an affidavit showing the birth, on June 15, 1902, of John A. Barnes, son of the applicant, John Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie and Nancy White, thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on March 8, 1902, of Amos White, son of the applicant, Lillie White; by Charles McLain for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain, thereafter, on September 1, 1901, there was filed with the Commission an affidavit showing the birth, on May 17, 1901, of Mattie McLain, daughter of the applicant, Malinda McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; and by George C. Bell for his wife, Maggie Bell, thereafter, on November 7, 1901, there was filed with the Commission an affidavit showing the birth, on September 18, 1901, of George L. Bell, son of the applicant, Maggie Bell.

THE RECORDS FURTHER SHOW: That on January 11, 1904, the Commission rendered its decision herein, denying said applicants, except Mattie McLain, whose rights to enrollment through an oversight, were not considered, the right to enrollment as Cherokee freedmen, and that on June 21, 1904 (Departmental letter I.T.D. 4732-04), said decision was duly affirmed by the Department; that, thereafter, on March 25, 1905 (Departmental letter I.T.D. 1332-05), on motion of the applicants, this case was reopened by the Department, and remanded for further testimony and readjudication; and that, thereafter, on April 13, and 27, and May 11, and June 22, 1905, further proceedings in the matter of said applications were had at Muskogee, Indian Territory.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Martha Albert, claims the right to enrollment as a Cherokee freedman by virtue of her compliance with the treaty stipulations of 1866, and that all the other applicants herein claim the same right as descendants of the said Martha Albert and one Jennie Barnes, deceased, who, it is alleged, complied with said treaty stipulations of 1866.

The following points are fully established by the evidence, no attempt having been made to disprove them:

(1) That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were full sisters, and were born prior to the commencement of the rebellion.

(2) That all the other applicants herein were born since the commencement of the rebellion, are lineal descendants of the applicant, Martha Albert, and the said Jennie Barnes, deceased, and possess no rights to enrollment as Cherokee freedmen o other than as such descendants.

( The records of this office fail to show that Ruth Barnes, mother of the applicants, Gussie A. and John A. Barnes, has ever made application for enrollment as a Cherokee freedman. Her mother, Willie White, and full sister, Viola White, and full brothers, Jim H, and Harry White, were originally listed for enrollment as Cherokee freedmen on Memorandum cards Nos. 10, 13, and 14, and were later transferred to Freedmen Rejected cards Nos. 317, 320 and 321. On April 24, 1905, their applications for enrollment as Cherokee freedmen were denied by the Commission, and record forwarded to the Department.

George C. Bell, father of the minor applicant, George L. Bell, was denied enrollment as a Cherokee freedman, by the Commission, on April 20, 1904, and on May 26, 1904, -Departmental letter I.T.D. 4050-04,- the Commission's decision was approved by the Department).

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the commencement of the rebellion, but, rather, that several years prior to the commencement of said rebellion, they, together with their mother "Nancy", were sold to one Dillingham, a citizen of the United States, were removed from the Cherokee Nation, and it is further shown that they did not return to said Nation on or prior to February 11, 1867. Excepting the Wallace and Kern-Clifton Rolls, none of the applicants herein can be identified on any roll of the Cherokee Nation in the possession of this office.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 ( 30 Stat., 495), Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A.

Barnes, John A. Barnes, Jerry Albert, Lillie White, Hattie White Haney White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennette McLain, Mattie McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Fannie Williams, Minnie Barnes, Maggie Bell and George L. Bell, are not entitled to enrollment as Cherokee Freedmen, and their applications for enrollment as such are accordingly denied.

_____
Commissioner.

Dated at Muskogee, Indian Territory,
this _____

F D 103

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED

MAY 15 1901

ACTING CHAIRMAN

Indian Territory

Cherokee Nation. I, A. S. McRae, Attorney for the within named applicant do hereby accept service of the within namednotice to take testimony this the 13th day of May 1901.

A S McRea

Attorney for the within-named applicant.

# NOTICE!

In the matter of the application of John Barnes Jr for enrollment as a Cherokee Freedman.

Case No. D 103

To John Barnes or A. S. McRae his atty

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on the following dates, to-wit: May 21st & 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 13 day of May 1901.

Bell, Hastings & Davenport

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District.

I do solemnly swear that I delivered a true copy of the within notice to _____ on the _____ day of _____ A. D. 1901.

Subscribed and sworn to before me this _____ day of _____ 1901. _____ Notary Public.

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. John Barnes,
Gans, I.T.
Cherokee F-D-103.
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date APR 16 1901

Post Office Gans

District Seq

1. Name John Barnes Age 24

Owner's name ____ Citizenship ____

Year ____ Page ____ No. ____ District ____

Parents:

Father Sam Barnes Citizenship Cad

Mother Jennie Citizenship Cad D

2. Name of wife ____ Age ____

Owners name ____ Citizenship ____

Year ____ Page ____ No. ____ District ____

Parents:

Father ____ Citizenship ____

Mother ____ Citizenship ____

Names of Children:

(2) Susan A Barnes Year ____ Page ____ No. ____ Dist. 431

4. ____ Year ____ Page ____ No. ____ Dist. ____

5. ____ Year ____ Page ____ No. ____ Dist. ____

6. ____ Year ____ Page ____ No. ____ Dist. ____

7. ____ Year ____ Page ____ No. ____ Dist. ____

8. ____ Year ____ Page ____ No. ____ Dist. ____

9. ____ Year ____ Page ____ No. ____ Dist. ____

10. ____ Year ____ Page ____ No. ____ Dist. ____

11. ____ Year ____ Page ____ No. ____ Dist. ____

12. ____ Year ____ Page ____ No. ____ Dist. ____

Application made by No (2) Stenographer Van Weine Clerk

(2) Affidavit of Birth to be filed.

35103

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
14 1901

ACTING CHAIRMAN

COMMISSIONERS
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, Indian Territory, May 15th, 1901.

Received of the Commission to the Five Civilized Tribes one copy of the original testimony in the matter of the application of John ~~Robertx~~Barnes et al for enrollment as Freedmen of the Cherokee Nation, copies of the testimony in the case of Martha Albert et al and one copy of the testimony in the case of Robert Barnes. The testimony in the Albert and Barnes case having been made a part of the record in the case of ~~Robertx~~ John Barnes.

A S McRea

Attorney for Applicants.

Cherokee F-#D103.

COPY.

Cherokee F.D-103

Muskogee, Indian Territory, January 11,1904.

John Barnes,

Gans, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and your two minor children, Gussie A. and John A. Barnes as Cherokee Freedmen. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the same, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles

Enc. D-37 Commissioner in Charge.

Register.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

A. S. McKeen,

Attorney for Martha Albert et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah Brown, Fred E. Knalls, Henry Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewy Albert, John Barnes, Minnie A. Barnes, John A Barnes, Jerry Albert, Lillie White, Mattie White, Henry White, Anna White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior

for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

W. Woodlee,
Commissioner in Charge.

Enc. 1-30
Register.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred K. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennette McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles

Commissioner in Charge.

Enc. D-31

Cherokee Freedmen.
D-42 et al.

Muskogee, Indian Territory, January 11, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Martha Albert et al., including the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cassie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Jathna Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

Respectfully,

T. B. Needles

Commissioner in Charge.

Through the Commissioner of Indian Affairs.

Enc. D-29.

Refer in reply to the following:

Land: 21868-1904.

Copy.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 9, 1904.

In re

Application for enrollment

as Cherokee Freedmen, viz:

| | | |
|---|---|---|
| Martha Albert, et al | F.D. 42 | |
| Robert Barnes, | F.D. 99, | |
| Lula Challis, et al | F.D. 100 | |
| Nancy Parkus, et al. | F.D. 101, | |
| Henry Albert et al, | F.D. 102. | |
| John Barnes, et a. | F.D. 103. | |
| Jerry Albert, | F.D. 104, | Consolidated. |
| Lillie White, et a. | F.D.105 | |
| Malinda Malone, et al. | F.D. 114. | |
| Frand Gardner, | F.D. 146 | |
| Joshua Barnes, | F.D. 180, | |
| Sarah Brown, et al. | F.D. 181, | |
| Minnie Barnes, | F.D. 182, | |
| Maggie Bell, et al. | F.D. 183. | |

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith the record of proceedings had before the Commission to the Five Civilized Tribes in the above consolidated cases of Martha Albert et al., affecting the rights of thirty-six applicants for enrollment as Cherokee freedmen. The Commission by its decision, dated January 11, 1904, ac-

nied the application of all the applicants in the above named cases, to be enrolled as Cherokee freedmen.

The record shows that applications for enrollment as Cherokee freedmen were made to said Commission by Martha Albert for herself and minor children, [redacted] and [redacted] Albert; by Robert Barnes for himself; by Lula Ballis for herself and minor children, Sarah French and Fred M. Ballis; by Nancy Berkum for herself and minor children, Annie Berkum and Walter Berkum; by Henry Albert for himself and minor children, Harry Albert and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes for himself and minor child, Bessie A. Barnes, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Hattie White and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Annie White; by Charles McLain for his wife, [redacted] and his minor children, Samuel, Ella, Christian, Charles, Tanner and Jeanetta McLain; by Frank Gardner for himself; by Jackson Barnes for himself; by Sarah Byers for herself and minor child, Maggie Williams; by Minnie Barnes for herself; by George G. Bell for his wife Maggie

Bell, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell. Claimants base their contention for a right to be enrolled as Cherokee freedmen upon the claim made that the principal applicant Martha Albert and her sister, Jennie Barnes, now deceased, from whom the other applicants claim descent, were at the commencement of the War of the Rebellion the slaves of one Johnson Whitmire, a Cherokee citizen, that during the war these alleged slaves, Martha Albert and Jennie Barnes went South to Red river in the Choctaw Nation where they remained until the fall of 1866 when they claim to have returned with one Ellis Harlin to the Cherokee Nation and settled with him on the Cale Starr place near Sherrebee Junction. The evidence adduced shows that Johnson Whitmire and George Whitmire, brothers and Cherokee citizens, owned before the war several slaves, designated as the "Whitmire darkies". The attempt to identify Martha Albert and Jennie Barnes as one of the "Whitmire darkies" at the commencement of the war has signally failed.

Watt Whitmire, son of Johnson Whitmire, who claims to have known the names of all the slaves of his father, testified that he had no recollection of any two female girl slaves named Martha and Jennie and can not even recall the fact that his father ever owned a slave named Nancy Whitmire, the mother of said girls. Harry Still whose master was George Whitmire, brother to Johnson Whitmire who only lived four miles distant and

know all the colored people raised by Johnson Whitmire; testified positively that Johnson Whitmire did not own a slave named Nancy Whitmire nor a slave named Martha Whitmire. J. W. Alberty who lived in the Going Snake District, Cherokee Nation before the war and who well knew Johnson Whitmire from whom he lived a distance of ten or twelve miles, testified that the Whitmire boys, George Whitmire and Johnson Whitmire, at the time they divided up their property in 1847 sold a slave named Nancy Whitmire with her whole family to a man named Dillingham who moved them with his family right across the line into Arkansas at a town called Dutch Town or Salem where he remained until he moved to Texas in 1850-1; that he knew the darkies "better after Dillingham got them than I did before" and that Dillingham only lived five miles from where witness then lived. It is evident that the principal applicant Martha Albert and her sister Jennie Barnes were living in Arkansas instead of the Choctaw Nation at the close of the war as Jennie Barnes' husband testified that he married her in November, 1866, at Fort Smith, Arkansas, where it appears Jennie Barnes was hired out and where her husband worked much of his time after marriage. Martha Albert claims to have married her husband in the Choctaw Nation during the war while her husband denies having married her until after his return to the Cherokee Nation. The death of Nancy Whitmire the mother of the principal applicant Martha Albert is shown to have occurred in 1866 but the place of her burial is not definitely shown. The belief that the principal applicant, Martha Albert was living in Arkansas and not in the Choctaw Nation as alleged by her, is further strengthened by the testimony of Mrs. Ruth Hunt

nee Ruth Harlin and Mrs. Emma Finley nee Emma Harlin, daughters of Ellis Harlin with whom it is claimed Nancy Whitmire and her two daughters, Martha and Jennie returned from the Choctaw Nation to the Cherokee Nation in November 1866. Mrs. Hunt and Mrs. Finley testify positively to the fact that their father Ellis Harlin did not return to the Cherokee Nation until February or March 1867, that no colored people returned in his company, that the first time they ever saw Martha Albert was in the "summer of 1867" when their father "went over in Arkansas somewhere towards Van Buren and hired the man to come and work", that the man's name was Albert and his wife's name was Martha, that neither the man nor his wife ever claimed to have ever been the slaves of Johnson Whitmire whom witnesses knew before the war, nor did either claim to be Cherokee freedmen that they ever heard of, until the roll was taken at Vinita in 1896 and applicants are identified as former hired help. John Walton testified that Martha Albert's husband told him "he found her at the Harlin place." If that be true and Martha Albert admits that on her return she first settled on the Gale Starr place on which Ellis Harlin lived it is evident that she did not return to the Cherokee Nation until the "summer of 1867." In view of all the facts and circumstances of this case, this office is of the opinion that the principal applicant Martha Albert and her sister Jennie Barnes now deceased, of whom the other applicants claim to be descendants, were not the slaves of Cherokee citizens at the commencement of the War of the Rebellion nor were they Cherokee colored persons in the Cherokee Nation at the

commencement of the rebellion and even had they been, which is denied, it is shown that they went out of the Cherokee Nation and did not return thereto prior to February 11, 1867, in contravention of the treaty of July 19, 1866, which provides:

"All freedmen who have been liberated by voluntary act of "their former owners or by law, as well as all free colored "persons who were in the countryat the commencement of the "rebellion and are now residents therein, or who may return t "within six months, and their descendants; shall have all the "rights of native Cherokees."

As the burden of proof lies upon claimants to establish their rights to recognition as Cherokee freedmen under the provisions of the treaty of July 19, 1866, and as they have failed to bring themselves within its purview, it follows that all of the aforegoing applications for enrollment as Cherokee freedmen must be denied.

We come now to the discussion of another point involved. It appears of record that the names of Martha Albert and her minor children Elijah and Ida are found on the Kerns-Clifton roll while the names of several of the descendants are found upon the Wallace roll. None of the applicants names are to be found upon the authenticated roll of 1880 nor upon the census roll of 1896.

Attorney for applicants contends that as the name of Martha Albert and her minor children, Elijah and Ida appear upon the Kerns-Clifton roll, that such fact is conclusive of their rights as Cherokee freedmen and pleads res adjudicata to any action by the Commission. Such contention cannot be maintained.

Congress by Act of June 25, 1898, Sec.21, directed the Commission to the Five Civilized Tribes as follows:

"It shall make a roll of Cherokee freedmen in strict "compliance with the decree of the Court of Claims rendered the "third day of February eighteen hundred and ninety six."

The Court in its decree of February 3, 1896, (see P.4), instructed said Commission as follows:

"The said Commissioners in ascertaining the identity of "the freedmen entitled to share under the decree, shall accept "that is known as the authenticated Cherokee roll, the same "now being on file in the office of the Secretary of the Interior, "having been furnished to him and purporting to have been taken "by the Cherokee Nation in 1880 for the purpose of showing the "number of freedmen then entitled to citizenship in the said "nation under the terms of the treaty between the United States "and the Cherokee Nation hereinbefore referred to, and their "descendants, and no evidence shall be accepted by said Commission "tending to disprove the citizenship of any of the persons "whose names appear upon said roll". And supplementary thereto, Sec. 21, of the Act of June 28, 1898, states expressly the proposition that the roll of Cherokee citizens of 1880 (not including freedmen) is "the only roll intended to be confirmed by this and preceding acts of Congress", thus in effect declaring that the plea of res adjudicata can not prevail unless the name of the applicant appears upon the authenticated roll of 1880.

which is not here claimed. Neither the fact of claimant's name appearing upon the Kerns-Gliften roll nor the fact of the names of her descendants appearing upon the Wallace roll, constituted any bar to further action by the Commission, as the Commission was expressly empowered by Sec.21 of the Act of June 28,1898, to "investigate the right of all other persons whose names are found "on any other rolls and omit all such as may have been placed "thereon by fraud or without authority of law, enrolling only such "as may have lawful right thereto." Thus the Commission was left free to act, as upon a new inquiry, to determine what freedmen, omitted from the roll of 1880 but "whose names are found on any other rolls" are entitled to the benefit of Article IX of the treaty of 1866. For the foregoing reasons, I concur in the opinion of the Commission that the applications for enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred H. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cassie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Ames White, Malinda McLain, Samuel McLain, Ella McLain, Christian McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Jashua Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen,

should be denied under the provisions of Sec. 2k of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is recommended that the decision of the Commission therein, dated January 11, 1904, be affirmed.

Very respectfully,

A. C. Tanner,

Acting Commissioner

GR

C

D.C. 21473-1904.
I.T.D. 4738-1904.
L R S

W.C.P.
J.P.
WHH

DEPARTMENT OF THE INTERIOR,
WASHINGTON, June 21, 1904.

Commission to the Five Civilized Tribes.
Muskogee, Indian Territory.

Gentlemen:

January 11, 1904, you transmitted the record in the consolidated case embracing the applications of Martha Albert et al. (F.D.-42), for enrollment as Cherokee freedmen, [redacted] your decision of the same date, rejecting the applications.

Reporting June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department affirms your decision, for the reasons stated therein.

Respectfully,
(Signed) E. A. Hitchcock,
Secretary.

1 inclosure.

Cherokee Freedmen

D-103.

Muskogee, Indian Territory, June 28, 1904.

John Barnes,

Gans, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and two minor children, Gussie A. and John A. Barnes, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-42 et al.

Muskogee, Indian Territory, June 28, 1904.

A. S. McNac,

Attorney for Martha Albert, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for enrollment of Martha, Elijah, Ida, Albert; Robert Barnes; Lula Knalls, Sarah French Fred H. Knalls; Henry, Harry, Raymond, Lewey, Albert; John, Gussie A. John A., Barnes; Jerry Albert; Lillie, Mattie, Nancy, Amos, White; Malinda, Samuel, Ella, Charles, Turner, Jennetta, Christiana, McLain; Frank Gardner; Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George L., Bell; Nancy, Annie, Walter, Berkum; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-42 et al.

Muskogee, Indian Territory, June 28, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha, Elijah and Ida Albert; Robert Barnes; Lula Knalls, Sarah French, and Fred E. Knalls; Nancy, Annie and Walter Norkum; Henry, Harry, Raymond and Lewey Albert; John, Gussie A., and John A., Barnes; Jerry Albert; Lillie, Mattie, Nancy, and Amos White; Malinda, Samuel, Mila, Charles, Turner, Jermetta, Christiana, McLain; Frank Gardner; Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George L. Bell; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

W. C. F.
FHE.

DEPARTMENT OF THE INTERIOR,

D. C. 16475-1905.
I. T. D. 1332-1905. WASHINGTON. March 25, 1905.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department has considered a motion filed by attorneys Neal and London, of Fort Smith, Arkansas, dated December 10, 1904, to reopen the Cherokee enrollment case of Martha Albert, et al.

January 11, 1904, you decided that the applicants in said case were not entitled to enrollment, and on June 21, 1904, your decision was approved by the Department.

The attorneys desire the case reopened in order that newly discovered evidence may be introduced to show that previous to the breaking out of the war Johnson Whitmire owned two slaves by the name of Martha; that prior to the breaking out of the war one of said slaves was sold to a man named Dillingham who lived in Arkansas; that she married a man named Williams; that the other Martha, known as "Little Martha", who is one of the applicants in the case of Martha Albert, et al, married a man named Albert who lived in the Cherokee Nation. It is claimed by said attorneys that the evidence introduced by the Cherokee

Nation at the original hearing does not apply to the applicant herein.

It appears from the motion and the affidavits submitted that the case should be reopened. The motion is hereby granted. You will so notify the applicants and their attorneys and the attorney for the Cherokee Nation, and allow a reasonable time for the introduction of additional testimony, after which you will readjudicate the case.

The motion, the record and other papers in the case are inclosed.

Respectfully,

(Signed) E. A. Hitchcock

Secretary.

6 inclosures.

COPY.

Cherokee Freedmen

R-422.

Muskogee, Indian Territory, April 8, 1905.

John Barnes,

Gans, Indian Territory.

Dear Sir:

In the matter of the application for the enrollment of yourself, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1332-1905), remanding this case for rehearing and readjudication.

You are, therefore, hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as you may desire in the matter of your said application. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED) T. B. Needles.
Commissioner in Charge.

Incl. S-33.
Register.

COPY.

Cherokee Freedmen

B-418, et al.

Muskogee, Indian Territory, April 8, 1908.

Veal & London,

Attorneys for Martha Albert, et al.,

Fort Smith, Arkansas.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 28, 1908 (I.T.D. 1332-1906), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 30, 1908, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED) T. B. Needles.
Commissioner in Charge.

Encl. B-66.
Register.

COPY.

Cherokee Freedmen

R-418, et al.

Muskogee, Indian Territory, April 8, 1908.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that this Commission is in receipt of departmental letter of March 28, 1908 (I.T.D. 1238-1908), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 30, 1908, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED). T. B. Needles.
Commissioner in Charge.

Encl. 2742

Cherokee Freedman
R-422

COPY.

Muskogee, Indian Territory, July 24, 1905

John Barnes,

Gans, Indian Territory.

Dear Sir:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, denying your application for the enrollment of yourself and children, Gussie A. and John A. Barnes, as Cherokee freedmen. There has heretofore been furnished your attorneys, Neal and London, Fort Smith, Arkansas, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED) Tams Bixby.

Commissioner

Incl. B 26

COPY. Cherokee Freedmen R 418 et al.

Muskogee, Indian Territory, July 24, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment as Cherokee Freedmen of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred K. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cassie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Anna White, Malinda McLain, Samuel McLain, Ella McLain Christiana McLain, Charles McLain, Turner McLain, Jeanette McLain, Mattie McLain, Frank Gardner, Jemima Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George K. Bell, including the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1906, rejecting said applications.

On January 11, 1904, the Commission to the Five Civilized Tribes rendered its decision denying said applicants,

Secretary--2.

excepting Mattie McLain, whose rights to enrollment were not at that time considered, and on June 21, 1904 (I.T.D. 4734-1904), said decision was affirmed by the Department. On March 25, 1905 (I.T.D. 1532-1905), this case was re-opened by the Department, and remanded for further hearing and readjudication.

Respectfully,

(SIGNED) Tams Bixby

Commissioner

Through the
Commissioner of Indian Affairs.

Inal. B-22

COPY.

Cherokee Freedmen
R 418 et al.

Muskogee, Indian Territory, July 24, 1905

Neal and Lowden,

Attorneys for Martha Albert et al.,

Fort Smith, Arkansas.

Gentlemen:

There is inclosed here ith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert, et al., C.F.R., 418, Robert Barnes, C.F.R. 419, Lula Knalls et al., C.F.R. 420, Nancy Berkum, et al., C.F.R. 423, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White et al., C.F.R. 424, Malinda McLain et al., C.F.R. 425, Frank Gardner, C.F.R. 430, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Neal and London--2.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED: Tams Bixby.

Commissioner

Incl. B-35

Cherokee Freedmen

R 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1908

Bell, Hastings and Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1908, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al., C.F.R. 414, Robert Barnes, C.F.R. 415, Lula Hamlin et al., C.F.R. 416, Nancy Bertram et al., C.F.R. 417, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Willie White et al., C.F.R. 424, Malinda McClain et al., C.F.R. 425, Frank Gardner, C.F.R. 426, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Bell, Hastings & Davenport,-2

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED): James Dixon.

Encl. R-26

Commissioner

-COPY-

E.B.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

D.C. 22968.
I.T.D. 4725-1904.
1332-1905.
8782- "
10262- "
L.R.S.

June 2, 1906.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

July 24, 1905, you transmitted the records with your readjudication in the matter of the enrollment applications for the enrollment of Martha Albert et al. as Cherokee freedmen, including your decision of same date, adverse to all the applicants.

August 12, 1905, the Acting Commissioner of Indian Affairs reporting thereon, recommended that your decision dated July 24, 1905, adverse to all the applicants named in his said letter, be approved. A copy of his letter, including the names of applicants affected by this decision, is inclosed.

The Department concurs in the recommendation made and your decision dated July 24, 1905, denying the application for the enrollment of Martha Albert and others named in Indian Office letter of August 12, 1905, is hereby affirmed.

A motion for review of said decision filed with the

Department on September 7, 1905, by Messrs. Blue & Bulger and McGowan, Sarven & Mahan, attorneys for moving parties therein, is hereby denied.

Respectfully,

Jesse H. Wilson,

Assistant Secretary.

1 inclosure.

COPY.

Cherokee Freedman
R 422

Muskogee, Indian Territory, June 15, 1906.

John Barnes,

Gans, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting, among others, your application for the enrollment of yourself and children as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion for review of your case filed September 7, 1905, is denied.

Respectfully,

SIGNED.

Tams Bixby.
Commissioner.

MMP

COPY.

Cherokee Freedman
R 418

Muskogee, Indian Territory, June 15, 1906.

Blue & Bulger,

Attorneys for Martha Albert,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that the motion filed by you September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED)

Tams Bixby.
Commissioner.

Incl.P-17
MMP

Cherokee Freedman
R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Neal & London,

Attorneys for Martha Albert,

Ft. Smith, Arkansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED.
Tams Bixby.
Commissioner.

Incl.P-15
MCP

Cherokee Freed-
man R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED.

Tams Bixby.
Commissioner.

Incl.P-16
MMP

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

LAND
59345-1905.

August 18, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated July 24, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Martha Albert for herself and her minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Ewalin for herself and her minor children, Sarah French and Fred H. Ewalin; by Nancy Berkum for herself and her minor children, Annie and Walter Berkum; by Henry Albert for himself and his minor children, Harry, Raymond and Lenny Albert; by John Barnes for himself and minor children, Gussie A. and John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and her minor children, Nettie, Nancy and Annie White; by Charles McClain for his wife, Malinda McClain, and his minor children, Samuel, Ella, Christiana, Charles, Turner, Jeanetta and Mattie McClain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself, and by George S. Bell for his wife, Nannie Bell, and his minor child George L. Bell.

July 24, 1905, the Commission decided adversely to all the applicants.

The record shows that on January 11, 1904, the Commission rendered a decision denying these applicants, except Mattie McClain inadvertently omitted, and that on June 21, 1904, the decision was affirmed by the Department; that thereafter, on March 25, 1905 (I.T.D. 2352-1905) the Department reopened and remanded the case for further testimony and readjudication.

The record further shows that the applicant, Martha Albert and Jennie Barnes, deceased, were full sisters, and were born prior to the beginning of the war of the rebellion; that all the other applicants were born since the beginning of the war, are lineal descendants of the applicant, Martha Albert and Jennie Barnes, deceased, and possess no rights to enrollment other than as such descendants.

It is further shown that the applicant, Martha Albert and Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the beginning of the war of the rebellion, and that they did not return to the Cherokee Nation on or before February 11, 1867.

Excepting the Wallace and Vera-Clifton, none of the applicants is identified on any roll of the Cherokee Nation.

In view of the record the approval of the Commission's decision adverse to all of the applicants is recommended.

Very respectfully,
C. F. Larrabee,
Acting Commissioner.

M.M.M.
W.

Cher. Fr. R-423

Cher. Fr. R. 423

See Cher. Fr. R-418 To R-422 both inc.
and 424 To R-431 both inc.

To be filed in case of Jerry Albert, Cher. Freedman, D 104.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 10,1901.

In the matter of the application of Martha Albert for the enrollment of herself and two children as Cherokee Freedmen; being sworn and examined by Commissioner Needles, she testified as follows:

Q What is your name? A Martha Albert.
Q How old are you? A About 54 or 5 years old.
Q What is your post-office address? A Melvin.
Q What district do you live in? A I live in Tahlequah District now; but I have been living in Sequoyah.
Q Do you apply to be enrolled as a Cherokee Freedman A Yes sir.
Q Did you ever apply to be enrolled as a Freedman of any other tribe or nation? A No sir.
Q Have you been recognized by the Cherokee authorities as a Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A I have got two children.
Q What are the names of your children? A Elijah Albert, 19 years old. Ida Albert, 10 years old.
Q Are you married? A Yes sir.
Q What is your husband's name? A Holly Albert.
Q Is he a citizen? A Well, he has been raised by them.
Q Is he living? A Yes sir.
Q Where is he? A He is down town.
Q Were you a slave? A Yes sir.
Q What was your owner's name? A Johnson Whitmire.
Q Where were you at the beginning of the war between the Confederacy and the United States? A Going snake.
Q Were you taken out of the Nation during the war? A Far as Red River.
Q This side or the other side of Red River? A This side.
Q When did you come back? A In '66.
Q You have been living down here ever since '66? A Yes sir.
Q What was your name before you were married? A I went by my owner's name, Martha Whitmire; I always goes by the name of Mat now,
Q Your name though is Martha? A Yes sir.
Q Have you ever lived in Cooweescoowee District? A No sir.
Q What is the reason your name aint on the roll of 1880? A I don't know; you know how ignorant people was, didn't know how to go at such business.
Q You say you were a slave of Johnson Whitmire? A Yes sir.
Q And that you came back to the Cherokee Nation in '66? A Yes sir.
Q You sure it was '66? A Yes sir.
Q You think it wasn't '75? A No sir, '66.
Q You wasn't here in '65? A No sir.

Examined by Cherokee Representative, James Davenport:

Q Who did you come back to the Cherokee Nation with when you came back? A With Ellis Harlin.
Q Where did you go first when you came back? A I stopped right down on the Cole Starr place where the Cherokee Junction is now.
Q Stopped on the Arkansas side didn't you? A No sir, I didn't.
Q How long did you live in Ft. Smith? A Never lived in Ft. Smith any.
Q How long did you stay there? A I staid there 2 years, and then went to Lee's Creek.
Q Who did you live with there? A Cherokee family there, named Allison, and Mrs. Franklin and all of them.
Q Where was Hickory Starr living at that time? A In Flint.
Q You didn't go up to Flint A No sir.
Q Well, did you go to Going Snake District? A No sir.
Q You just went to Sequoyah District and remained there? A Yes sir.

Martha Albert et al 2

Examined by Commissioner Needles:

Q Have you got anybody here that knows you and knows you were here in '66? A Yes sir, Mandy Benton and John Melton.

JOHN MELTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A John Melton.
Q How old are you? A 64.
Q What is your post-office address? A Benge.
Q Are you a Cherokee Freedman? A Yes sir.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q You know Mattie Albert? A Yes sir.
Q Was she a slave during the war or before the war? A I don't know.
Q When did you first know her? A About '67, early in '67; I saw her husband in '66 sometime, and had a talk with him; he said he foundher at the Harlin place; I often heard talk of them being down there, but I never see them for a few months after.
Q When did you first see her? A Early in '67.
Q Early as January? A No sir.
Q Sometime in the spring? A Yes sir, along in the spring.

Examined by Cherokee Representative, James Davenport:

Q You don't remember what time in '67 you saw her? A No sir, not exactly.
Q You don't know where they were during the war? A No sir.

MANDY BENTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Mandy Benton.
Q How old are you? Mandy? A About 70.
Q What is your post-office? A Benge
Q You are a Cherokee Freedman are you? A Yes sir.
Q You know Mattie Albert? A I have been knowing her ever since the surrender.
Q You know where shewas at the close of the war between the Confederacy and the United States? A No sir, I don't think I do.
Q Where did you first get acquainted with her? A On the Harlin place.
Q What year was that? A '66.
Q Was she there in '66? A Yes sir.
Q You know whether she had been a slave or not? A Yes sir, she was a slave.
Q You know who her owner was? A Whitmire.

Examined by Cherokee Representative, James Davenport:

Q What makes you remember that it was in '66 when you first got acquainted with her? A Well, just by paying attention to others talking I reckon, and knowing it was that time.
Q How long after the surrender was it you got acquainted with her? A Well, really I don't know.
Q Was it two years or three years? A It might have been a year and maybe not so long; I don't remember.
Q Where was she living when you got acquainted with her?
A At the Harlin Place.
Q Where is the Harlin place, I don't know Mandy? A It is in Sequoyah.
Q With whom was she living at that time? A Withher husband and her children.
Q How may children had she? A I don't know how many children she had.

Q How far were you living from where she was living at that time?
A I guess it's about very near two miles.
Q You remember any of the Cherokee families living in that locality where she was living? A No.
Q You don't remember anything about it except it was in '66 you got acquainted with her? A Emma Harlin was living there then I think, if I mistake not.
Q Was Cale Starr living there? A I don't know- I remember--
Q You know Cale Starr? A Yes sir. I would like to get it straight; I tell you I have had so much trouble since that time I don't remember.
Q You don't know whether it was '66 or '76? A It was '66.

Examined by Cherokee Representative, W.W.Hastings:

Q It was before the treaty was it aunty that you got acquainted with her? A I guess it was.
Q Now aunty, you don't know anything about years do you? A I forget them.
Q You didn't know anything about years then did you A Oh I guess I was here; I know a little something about it.
Q What year is this? A Now I disremember.

Examined by Commissioner Needles:

Q You are pretty positive though that you saw this woman in '66
A I sure is.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not identified thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and applicantsidentified thereon as follows:
page 159 #3934 Mattie Albert Sequoyah District.
page 159 #3936 Elijah Albert Sequoyah District;
page 159 #3937 Ida Albert Sequoyah District.

Q Have these children always lived in the Cherokee Nation?
A Born and raised here.

Com'r Needles: The name of Mattie Albert and her children Elijah and Ida are found upon the Kerns-Clifton roll; their names do not appear upon the authenticated roll of 1880 nor the census roll of 1896; they are duly identified; now comes the Cherokee Nation, and protests against their enrollment, consequently, final judgment will be suspended as to the enrollment of said Mattie and her children, and their names will be placed upon a doubtful card.

----****----

M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this April 26, 1901.

C Meekinnide

Commissioner.

To be filed in case of Jerry Albert D 104.

Department of the Interior.
Commission to the Five Civilized Tribes.
Ft. Gibson, I. T., April 18, 1901.

In the matter of the application of Martha Albert for enrollment as a Cherokee Freedman; she being sworn and examined by Commissioner Breckinridge, testified as follows:
Supplemental testimony D - 42.

Q Give me your full name. A Martha Albert.
Q How old are you? A I don't exactly know; I hold myself for about 57 years old.
Q What is your postoffice? A Melvin.
Q In what district do you live? A I live in Tahlequah District.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they all under 21 years of age? A No sir, they are all married but one.
Q Then you want to enroll those two? A Yes sir.
Q Have you a husband? A Yes sir.
Q Do you want to apply for his enrollment also? A No sir.
Q How long have you lived in the Cherokee Nation? A Been living here - I was born and raised here.
Q Lived here all your life? A Yes sir.
Q Have you applied before? A Yes sir, I didn't put my children on; I wasn't satisfied the way I went in for.
Q So you want to apply again? A Yes sir.
Q Why didn't you apply for your children when you applied before for yourself? A The witnesses couldn't stay.
Q You didn't have your evidence in good shape? A No sir.
Q I have here your enrollment card and it appears that you did apply for two children, one Elijah and one, Ida? A Yes sir.
Q Are those the names of your children? A Yes sir.
Q What you want to give now is some additional testimony? A Yes sir.
Q What witnesses do you want to introduce now? A Henry Brown and Andrew Crossland.

Henry Brown, being sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give me your full name. A Henry Brown.
Q How old are you? A I am suppose to be about 44 years old.
Q What is your postoffice? A Vian.
Q In what district do you live? A Illinois.
Q How long have you lived in the Cherokee Nation? A I lived here all my life, only the time of the war.
Q You were out during the war, were you? A Yes sir.
Q Where did you go? A Chickasaw Nation.
Q You lived in the Cherokee Nation before the war? A Yes sir.
Q Well you were quite a child during the war? A I was about 12 or 13 years old during the time of the war; maybe 16; I don't know my age exactly.
Q What time did you come back to the Cherokee Nation, the time during the war? A They said it was in the fall of '65.
Q You came from the Chickasaw Nation? A Choctaw rather.
Q Then you never were out of the Indian Territory during the war? A No sir.
Q Do you know an applicant here, Martha Albert? A She used to go by the name of Whitmire.
Q Is she known as Albert now? A Yes sir, by her husband's name.
Q Did she belong to a man named Whitmire before the war? A That's what they claim they belonged to Whitmire.
Q Were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Brown.
Q What was Whitmire's full name, do you remember? A I don't know his full name.
Q John Whitmire? A I heard that name, yes sir; I heard him

called by that name.
Q Well, now, in those days did you live near Whitmire's place? A No sir, I lived at that time in Canadian District.
Q How far from Whitmire's place? A That's - I don't know how many miles. They claimed before the war something like forty miles; I don't know.
Q You came back to the Cherokee Nation when? A In the fall of '65.
Q When did you first see Martha Albert, as she is called now, after you come back? A It was in '66 as near as I can remember; I saw her at old Jack Campbell's church house.
Q You can't be certain what year it was? A No sir, but I think it was in '66.
Q Have you known her pretty well ever since that time? A I have been seeing her off and on; I lived in Illinois and they used to live in Sequoyah.
Q Has she been living in the Cherokee Nation ever since you saw her then? A That is where I have been seeing her.
Q About how often would you see her, once a year or once every five or ten years? A I couldn't say how often; it wasn't often.
Q But you have seen her some since? A Yes sir, some since I come back after the war.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q Did you ever see this woman before the war? A No sir, never seen her before the war.
Q You never knew her then? A No sir.
Q The first time you ever saw her was after the war? A Yes sir.
Q And you never heard her personal name? A No sir.
Q You don't know that this woman was among them, the Whitmires? A No sir, I don't know.
Q I mean among them after the war when you saw her? A I only knew that they were Whitmire's darkies.
Q Did you know her personally? A No sir.
Q Did you know her after the war? A Yes sir, I saw her at this church.
Q The first time you saw the Whitmire darkies, you don't remember this woman personally except seeing her in the crowd? A I saw her with the Whitmire darkies.
Q Were they at the church house there at that time? A Yes sir.
Q Colored Church? A Yes sir.
Q Do you remember that this woman herself, individually, was among them? A No, only that they said they were Whitmires.
Q You don't remember this woman personally except the Whitmires generally that were there? A They said they was the Whitmire darkies.
Q Did you see this particular individual colored woman at that time in '66? A As near as I said it was '66, that was the day I saw her at the church as a Whitmire.
Q Did you see this particular woman? A Yes sir.
Q Do you think you saw her in '66? A As near as I can come at it.
Q You are not positive? A I am satisfied that it was '66.
Q What makes you fix that date? A Because I think it must have been near that time. It was the time I moved on Canadian. I was living there.
Q You were living in Canadian then? A Yes sir.
Q What were you doing down there? A I was in the Court at Fort Smith.
Q Who was preaching there? A I didn't go there; I just happened to be around there and Harry Foreman.
Q You don't know who preached? A No sir.
Q You didn't know this woman before? A No sir.
Q Why was it that this woman among a whole crowd of darkies was pointed out to you and why do you remember? A Because I heard it was the Whitmire darkies.
Q There was a number of them? A She was a particular one, he said was a Whitmire darkey.

Q What makes you remember that? A Because he said so.
Q Was she married then? A I don't know whether she was or not.
Q You don't remember of seeing her husband then? A No sir, I don't.
Q Where was that church? A Jack Town, this side of the river.
Q How far from the Payne place? A Six or seven miles this way from the river.
Q By Cherokee Junction? A Yes sir.
Q You don't know who she come back with? A No sir.
Q You don't know how long she's been back? A No sir.
Q What time of the year was it you saw her? A As near as I can say it was '66.
Q Spring, summer or fall? A Along in August of '66.

Commissioner-
Q You were a stranger down there in that neighborhood? A No, not exactly I knowed some of the people down there.
Q How far did you live from there? A 45 or 6 miles.
Q Had you ever lived in that neighborhood? A I used to stay there a while after the way by Dr. Campbell place.
Q Did you visit or live there? A When I come there, I came from Fort Smith and stopped at Campbells'.
Q How long did you stay there? A Several months.
Q Were you acquainted with many of the Whitmire darkies as you call them? A No more than just heard them as Whitmires when I was at the church.
Q And there were a lot of them there and they said they were Whitmire people? A Yes sir.
Q There seemed to be a lot of them? A This woman said she was a Whitmire and Charley Whitmire; they called them the Whitmire Darkies.
Q How long after that was it before you seen this woman again? A I couldn't say how long it was afterwards; it was some times afterwards.
Q Some years? A No years.
Q When were you down there again? A Several times after that.
Q You have been down there several times since that time you were at the church and the present day? A Yes sir, several times.
Q Well, about how long after being at the church before you went there again? A It must have been; I couldn't say, I stopped by Jacktown and would be on this side of the river. I can't say.
Q Were there a number of these Whitmire colored people down there?
A They were acknowledged to be Whitmire pagans. They claim to be several of them; the ones I speak of is the one I saw that Sunday.
Q Were there quite a number of them? A They claim there was a good number of them.
Q You saw a good many who were claimed to be Whitmire people? A Yes sir, Whitmire Darkies.
Q What impressed this woman on your mind? A Harry Foreman pointed her out to me as a Whitmire.
Q You weren't acquainted with her? A No sir, only saw her that Sunday.
Q He pointed her out and others as belonging to the Whitmire crowd? A Yes sir.
Q Do you think that made enough impression on your mind passing there to remember her during all this time, you living forty miles away? A I saw her since then; that wasn't the only time I saw her.
Q You can't say for certain what year it was you were down there?
A No sir, as near as I can remember, I claim it must have been '66.
Q And this is as far as you can go? A Yes sir, in being honest.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q I believe you stated that you attended Court at Fort Smith?
A Yes sir.
Q What trial? A Brother Green.

Q Was he tried at Fort Smith that year? A Yes sir.

Commissioner-
Q That is the year you claim you saw the woman at this church? A Yes sir.
Q Remember we are talking about the year you saw the Whitmire people? A I think it was in '86.
Q I am not asking you about that, we are trying to locate what business you had in the Court at Fort Smith in the year that you were at the church - what business took you to Fort Smith that particular year? A I couldn't say what year.
Q I never asked you about the year, I asked you about the business?
A As a witness.
Q In what case? A Green Lowry.

Examination by W. W. Hastings-
Q What Judge tried that case? A Judge Parker.
Q At Fort Smith? A Yes sir.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

O. Rothenberger

Subscribed and sworn to before me this 27th day of April, 1901.

Commissioner.

To be filed in case of Jerry Albert, Cherokee Freedman D 104:

SUPPLEMENTAL: D 42:

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Martha Albert et al for enrollment as Cherokee Freedmen;
Albert Johnson, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Albert Johnson.
Q How old are you? A I am 43
Q What is your post-office? A Benge.
Q In what district do you live? A Sequoyah.
Q You want to give some testimony in the case of Martha Albert and her children? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life, with the exception of going out into the Choctaw Nation during the war.
Q At what time did you come back to the Cherokee Nation? A'65.
Q And have you lived here ever since? A Yes sir; I have been right in the Territory ever since.
Q Do you know Martha Albert? A Well, yessir, I do to some extent.
Q How far does she live from you? A She lived right by us.
Q At one time? A Yes sir.
Q When was that? A Oh that has been I reckon about 24 or 5 years ago since she lived right by us, I guess; I wont say that for certain.
Q What was her name in that day? A Well she went by Mattie Albert.
Q Do you know what her name was before it was Albert? A No sir, I couldn't say just what her name was, because I didn't know.
Q Where did she live before that time, 24 or 5 years ago, when you and she lived close together? A I am going to tell you just like I know; I aint going to tell nothing more than that; they said she lived up on Lee's Creek; I don't know that.
Q You have no knowledge of your own? A No sir, not as to whereabouts she was living at all.
Q So of your own knowledge, except for hearsay, you don't know anything more than 24 or 5 years ago, is that so? A Yes sir.
Q Your first personal acquaintance with her was 24 or 25 years ago, as near as you can place it now? A Yes sir.
Q How old were you when you first knew her? A I guess I must have been about 17 or 18 years old; I guess I was, I don't know exactly.
Q You were most a young man? A Yes sir.

Examined by Cherokee Representative, W.W.Hastings:

Q How far, Albert, did you live from Lee's Creek? A I lived 10 miles from Lee's Creek.
Q Yet you never saw her before that time? A No sir.

ANDY CROSSLAND, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Andy Crossland.
Q How old are you? A About 74.
Q What is your post-office? A McKee.
Q In what district do you live? A Illinois District.
Q You want to give some testimony in the case of Martha Albert and children? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been here all the time, born here.
Q Were you in the Cherokee Nation during the Civil war? A Yes sir.
Q All the time during the war? A Yes sir, I was a soldier.
Q When did you begin soldiering? A I can't tell you; I was a soldier.
Q What command were you in? A Cherokee.

Q In the Union Army? A Home Guard.
Q Were you Home Guard on the Union side or the Confederate side?
A Confederate side.
Q Well then, you quit soldiering of course when the war closed?
A Yes sir.
Q Did you surrender? A Yes sir.
Q Where did you surrender? A Right here at Ft. Gibson.
Q When did you first know Martha Albert? A After the war.
Q Where did you live before the war? A Down in Sequoyah District.
Q Were you a slave in those days? A Yes sir.
Q To whom did you belong, did you belong to a man named Crossland?
A Yes, his wife.
Q What was her husband's name? A John.
Q You were aroled right here at Ft. Gibson? A Yes sir.
Q Where did John Crossland and his wife live? A In Sequoyah District.
Q Near what town? A Close to Redland.
Q Who did Martha Albert belong to in old times; she was a slave in old times was she? A I couldn't tell you.
Q You don't know then, of course, where she lived back before the war? A He used to live there in Flint.
Q Who are you talking about? A Martha.
Q You said he, you mean Martha Albert? A Yes sir.
Q You say she must have lived in Flint, but you don't know?
A No.
Q When did you first see her? A Close to Ft. Smith on Cale Starr's place; had a place close to Stonewall, and I was going down towards Van Buren and I staid all night with her.
Q How did you happen to see her? A I staid all night with her.
Q Staid all night there? A Yes sir.
Q She was living on the ~~past~~ plantation? A Yes sir, on Cale Starr's place.
Q She was a married woman then? A Yes sir.
Q You stopped at their house? A Yes sir.
Q What were you going down to Van Buren for? A Taking some cattle.
Q You had gone to work? A Yes sir.
Q How long had you been living up here before you started that trip? A I had been living all the time.
Q But after you were paroled and the war was over, you went to work? A Yes, well I stopped down at Sand Town after peace was made.
Q ~~xxxxxxxxxxxxxxxxxxxxxxxxxx~~ You were in the Home Guard? A Yes sir.
Q And after the war was over you were paroled? A Yes sir.
Q And then you went to work? A Yes sir.
Q Who did you go to work for? A Just sometimes hired in a job of cattle, to Van Buren.
Q How long had you been working after the war before you went down to Van Buren after the war with that lot of cattle? A Three or four years.
Q Three or four years then, after the war was over, and you had been paroled, you went down to Van Buren with a lot of cattle?
A Yes sir.
Q And on that trip you stopped at this woman's house and staid all night with her family? A Yes sir.
Q And at that time you got acquainted with her? A Yes sir.
Q That's the first time you ever saw her? A Yes sir.
Q And you have no knowledge of her before that time? A Yes sir.
Q Well you never knew her before that time? A No sir.
Q Have you been knowing her off and on ever since? A Ever since.
Q So you don't know where she was before you met her at that time? A No sir.

ROSE ROGERS, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Rose Rogers.
Q How old are you? A I pronounce my age 56 years of age.

Martha Albert et al 3 : supplemental

Q What is your post-office? A Locust Grove.
Q In what district do you live? A Saline.
Q You want to give some testimony in the case of Martha Albert and her children? A Just of her owners and where she lived.
Q How long have you lived in the Cherokee Nation? A I have been bred and born in Goingsnake District, I have been nowhere else.
Q Live d here all your life? A Yes sir, until I went south with my owners time of the war.
Q Where did you go? A Down in the Choctaw Nation.
Q You remember the first year when you went to the Choctaw Nation? A Yes sir, just when the war broke out we went to the Choctaw Nation.
Q And you came back when the war was over? A Yes sir.
Q Who did you belong to in those days? A Cornelius Wright.
Q Who was it Martha Albert belonged to? A She belonged to Johnson Whit ire; her mother did.
Q Did she belong to Johnson Whitmire herself? A Yes sir, she belonged to Johnson Whitmire; her mother and her mother's children; I was about 11 years old.
Q How far did Johnson Whitmire live from Cornelis Wright? A Five miles, on the mouth of Barron Fork, close to Pea Vine Creek.
Q You know where Martha Albert was during the war? A No sir, I don't.
Q What do you know about her after the war? A I haven't seen her since the war until I met her here on Fourteen Mile Creek.
Q When was that? A Just last year; I saw her since she was a little girl.
Q So you haven't seen her since you went down to the Choctaw Nation during the war until you met her out here on the Creek last year? A Yes sir.
Q And that's all you know about her? A Yes sir. I knew where she was bred and born on Barren Fork; she lived with johnson Whitmire; there was two brothers then, George Whitmire and Johnson Whitmire.
Q Did you see her during the war? A No sir.
Q You don't know where she was taken? A No sir, but her people went south; they was in behind, so we went ahead of them; they located somewhere in the Choctaw Nation, but I couldn't say where.
Q You don't know about that? A No sir.
Q Did you know her in that day, before the war? A Yes sir, we were children together; just lived five miles apart; I just wanted to identify her mother, who they belonged to; and they were not sold out; I am qualified; I want to state what I know.
Q You know she was born in the Cherokee Nation and went out during the war? A Yes sir.
Q And beyond that you don't know anything except when you met her about a year ago? A Yes sir. We was raised together; gathered hazel nuts together.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this April 26, 1901.

C. Breckinridge.

Commissioner.

To be fil d in case of Jerry Albert Cherokee Freedman, D 104.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 16,1901.

In the matter of the applic ation of Robert Barnes for the enrollment of himself as a Cherokee Freedman; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Q Give me your full name? A Robert Barnes.
Q How old are you? A 33.
Q What is your post-office? A Foreman.
Q In what district do you live? A Sequoyah.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A My youngest sister; all the children is grown but my sister.
My mother is dead; I am applying for my brothers and sisters.
Q Why don't they apply for themselves? A Well, I am putting in the case for us.
Q Are your brothers and sisters all of age? A Yes sir, all but one.
Q Since they are of age why don't they apply for themselves?
A Well they will do that.
Com'r: The law requires that, unless there is some very strong reason to the contrary.
Q You have one sister under age? A Yes sir.
Q Does she live with you? A Lives with my father.
Q Where is your father? A He is at home.
Q He should apply for his child? A He don't claim any right himself.
Q Yes but he is the father, and he should apply for his child.
Q You apply then for yourself: how long have you lived in the Cherokee Nation? A Always.
Q All your life? A Yes sir.
Q Give me the name of your father? A Sam Barnes.
Q He is alive? A Yes sir.
Q Give me the name of your mother? A Jennie Barnes.
Q Is she alive? A No sir, she is dead.
Q How long has she been dead? A About ten years.
Q You say your father is not a Cherokee Freedman? A No sir.
Q Was your mother a Cherokee Freedman? A Yes sir.
Q You have never lived anywhere except in the Cherokee Nation?
A No sir.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

1896 census roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

Q You don't appear to be upon any roll of the Cherokee Nation? A I am on the Wallace roll.
Q Could you have been enrolled under any other name? A No sir.
Q Has your mother lived with your father ever since they were married? A Yes sir.
Q Willie, Charley and Turner Barnes, are they your folks? A Yes sir.
Q How old was your mother when she died? A I think she was about 42 or 3.
Q Where was your mother born? A In Delaware.
Q Was she a slave before the war? A Yes sir, said she was.
Q To whom did she belong? A Johnson Whitmire.
Q Where was she during the war? A I don't know sir.
Q Where were you born? A I was born in Sequoyah district.
Q Do you know where your mother was in '65 or '66? A Why she said she was living down there near Cherokee Station.

Q She was married to your father at that time? A Yes sir.

Com'r: Well, you see, so far we are without any evidence, except hearsay evidence that you have, about your mother being either a slave before the war, having been setfree in the Nation in any way, and about where she was during the war, and when she got back; you see you were not born until '67 or '68, according to your age, and you are not on any roll, and you had better have your father come in and apply for this child, and give testimony also in your case; he may be able to throw some light on it.

Q Is there no witness you want to bring in? A Yes sir, Mat Albert.

MARTHA ALBERT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give your name there, please? A Martha Albert.
Q How old areyou? A I am about 57 or 8 years old.
Q What is your post-office? A Melvin.
Q In what district do you live? A Live in Tahlequah District.
Q You want to give some evidence here in the application of Robert Barnes don't you, for enrollment? A Yes sir.
Q You have made an application for yourself and two children?
A Yes sir.
(Com'r: This is D 42.)
Q A trouble in your own application appeared to be to establish when you came back to the Cherokee Nation after the war?
A I came back here two months before the '66 treaty went off.
Q You know Robert Barnes do you? A Yes sir.
Q How long have you known him? A I have knowed him ever since he has been born; he was my sister's child.
Q Child of your sister Jennie? A Yes sir.
Q She belonged to Johnson Whitmire? A Yes sir.
Q Were you and she taken out of the Cherokee Nation during the war? A We went to Red River in the Choctaw Nation.
Q You didn't go across the river? A No sir, we never crossed into Texas.
Q Was your sister there with you? A Yes sir.
Q And both of you belonged at that time to Johnson Whitmire, did you? A Yes sir.
Q Well, did she come back with you? A Yes sir.
Q Johnson Whitmire brought you both back? A No sir, my father brought us back.
Q You and your sister came back together? A Yes sir.
Q What was the father doing down there? A Well we went south.
Q Was he working down there? A Yes sir.
Q On a plantation? A Yes sir; he was a free man; he always just dug wells around for people.
Q Your father was a free man? A Yes sir.
Q But your mother was a slave? A Yes sir.
Q Did she come back with you and your sister? A Yes sir.
Q What business did you say your father did? A He dug wells and worked around for people.
Q And he brought your mother and both of you back? A Yes sir.
Q In what year did he bring you and your sister? A 1865 when I come back here.
Q What time of the year was it? A It was in the fall of the year.
Q Where did your sister locate when she came back? A She located down here close to Cherokee Station.
Q Were you in the same neighborhood with her? A Yes sir, right in the same yard.
Q Were you on a plantation of about the town? A I was on Cale Starr's place.
Q On a farm A Yes sir.
Q He is not living now, Cale Starr, is he? A I don't know.
Q Any of his children living? A I don't know.
Q Is his wife living? A I don't know that, neither, I have been

living in Sequoyah.
Q Are there any of the people who were living there on that place at that time living now? A No sir, not on that place; there wasn't no one there but us working the farm, rent d the place.
Q You and your sister were on that place? A Yes sir.
Q But there were no colored people on it but just you and your people? A Yes sir.
Q Well now how many people were in your family at that time, you and your sister and who else? A Me and my sister and our husbands.
Q Was her husband then living, Sam Barnes? A Yes sir.
Q And your husband, is he living? A Yes sir.
Q Has your husband testified in your case? A No sir.
Q Why didn't you bring your husband? A He is in here somewheres.
Q Yous sister's husband is not here is he? A No sir.
Q Did your husband go around the country digging wells after he got back? A My father.
Q Was he with you when you got back? A Yes sir, brought us back.
Q Did he go around the country digging wells? A No sir, he didn't dig any wells after he got back.
Q What did he do? A He farmed.
Q Was he living with you there on Mr. Starr's place? A Yes sir.
Q Your father is dead now? A Yes sir.
Q Who had farms there in that neighborhood? A Old Uncle Jack Campbell.
Q Is he alive? A No sir, he is dead.
Q Anybody else? A Yes sir, Dave Choate, had a place right there joining.
Q Named Chouteau? A Named Choate, Cherokee.
Q Is he living? A I don't know.
Q Do you know anybody who is living now that was living in that neighborhood there and knew you all? A Yes sir.
Q Well give their names? A Eliza Franklin, it aint Franklin now; that was her name when I knew her; her name is Eliza McCrady now.
Q Is she about the room now? A No sir, she is living down in Sequoyah; she is a Cherokee.

Examined by Cherokee Representative, W.W.Hastings:

Q Where were you married? A We married in slavery time; we married in the Choctaw Nation.
Q Your husband came back with you also? A Yes sir.
Q I thought you said your father brought you back? A Well my father was the leading one brought us back.
Q Where was your sister married? A She was married here under the Cherokee law.
Q She wasn't married down there? A No sir.
Q Her husband didn't come back with her? A No sir.
Q Where was Robert Barnes born? A Down in Sequoyah.
Q On what place? A Right there on the Cale Starr place.
Q That's how far from Ft. Smith? A About four miles.
Q And by the river, on this side? A Yes sir.
Q You say Cale Starr was living there at the time? A No sir, old man Ellis Harlin was living there.
Q He had a family? A Yes sir.
Q One of them named Emma? A Yes sir.
Q She was living there? A Yes sir.
Q Another one named Ruth? A That's right.
Q She was living there at that time? A Yes sir.
And a boy named Oce.
Q And Oce was living there at that time? A Yes sir.
Q He knew your people now? A Yes sir.

Examined by Commissioner Breckinridge:

Q How many children have you? A I have got six.
Q Where was your oldest child born? A Born in Sequoyah.

Q After you got back after the war? A Yes sir.
Q How old is that child? A About 37 years old.
Q How long had you been married down in the Choctaw Nation when you got back? A We married time of the war.
Q Along towards the last of the war? A Yes sir.
Q How long had you been married when your oldest child was born?
A [redacted] I couldn't go to work to tell about that.
Q [redacted] Been several years had it? A Yes sir.
Q How long had you been back here when [redacted] your oldest child was born? A She was born in '67.
Q How long had you been back here when she was born? A Well I say she was born in '67.
Q Who attended on you at the time of the birth of that child? A The woman who attended on me is dead, Mandy Benton's mother.
Q Some of the ole people living who remember when that child was born? A No sir, none that I know of; there wasn't no colored folks in there hardly then.
Q You don't remember how long you had been back in the Cherokee Nation when that child was born? A Yes sir.
Q How long? A She was born in '67.
Q I didn't ask you what year she was born in, I asked you how long you had been in the Cherokee Nation when that child was born?
A Well I tell you she was born the yearafter I come back here.
Q Was the child born in the spring, summer or fall? A Born in January.
Q And what time of the year was it you got here? A I got here in the fall of 1866.
Q In the fall before the January this child was born? A Yes sir.

COLLY ALBERT, being sworn and examined by Commissioner Brookinridge, testified as follows:

Q Give me your full name? A Colly Albert, is the way I always sign my name.
Q How old are you? A I am 61.
Q What is your post-office? A Melvin.
Q In what district do you live? A I live in Illinois District.
Q You want to give some testimony in the case of Robert Barnes do you, who has applied for enrollment? A Well, I can give some.
Q Well you are not here to apply for your own enrollment are you?
A No sir, not now; not at present.
Q Are you the husband of Martha Albert? A Yes sir.
(Com'r: Her case is D 42.)
Q Do you know Robert Barnes? A Yes sir.
Q How long have you known him? A I have been knowing him ever since he was born.
Q How long have you lived in the Cherokee Nation? A I have been raised and born here in the Cherokee Nation.
Q Were you a slave in old times? A Yes sir.
Q To whom did you belong? A Old lady Bushyhead, Nancy.
Q Where were you during the war? A I was down on Red River.
Q In the Choctaw Nation? A Yes sir.
Q Where did you live before that, on Nancy Bushyhead's place?
A Yes sir.
Q In what district was that, A In Going snake District.
Q You married your wife, Martha, down there did you, on Red River?
Q No sir, I married her after I come back; I lived with her but I didn't marry her until after we come back to the Cherokee Nation.
Q How long after you came back to the Cherokee Nation was it before you and she married? A About three years I guess; I joined the church and they wouldn't let me live in the church until I married.
Q Did you and she have any children until after you were married?
A Yes sir, she had two.
Q Two before you were married? A Yes sir.
Q That is, before you were married the way the church made you marry? A Yes sir.
Q You know your wife's sister, Jennie? A Yes sir.

Q She was married to Sam Barnes was she? A Yes sir.
Q Did you come back with your wife after the war when she came from the Choctaw Nation? A I come a little ahead of her; a few days.
Q Just a few days? A Yes sir, she come withher father.
Q Did her sister Jennie come with her? A Yes sir.
Q She and your wife came together? A Yes sir.
Q Her sister Jennie was the mother of this Robert Barnes? A Yes sir.
Q What were you doing down there in the Choctaw Nation, farming?
A Yes sir, worked on the farm awhile.
Q Well you were working on a farm all the time weren't you? A No sir, sometimes I was driving a team.
Q Did you make a crop of cotton? A No sir, corn crop.
Q Where did you locate when you came back from the Choctaw Nation?
A Near Cherokee Station there on Caleb Starr's place.
Q What time of the ~~year~~ year was it you got back there? A It was along in August, some time in August, I disremember just what day in August it was, but we got back there in August.
Q You think that was in what year? A 1866.
Q What fixes that on your mind? A Well I kept count of how long the war run; I knowed what year the war come in on.
Q How long had the war been closed when you came back? A I come back next spring after the war closed.
Q You fixed it on your mind that way? A Yes sir, that's the way it was.
Q You know this woman Jennie Barnes, whom did she belong to before the war? A I didn't know who she belonged to; I know who they always said she belonged to; she belonged to same man my wife did.
Q Whatwas his name? A Johnson Whitmire; I never got personally acquainted with them until I got down there on Red River.
Q Was Jennie Barnes older or younger than your wife? A She was youngest, her mother and father said.
Q Was she married there in the Choctaw Nation? A No sir, I don't think she was until we come back to the Cherokee Nation I think.
Q Married after she got back? A Yes sir. As well as I recollect that's what they told me; I wasn't there when they married.
Q But you were seeing them all the time weren't you? A Yes sir.
Q Did yousee her very soon after she was said to have been married? A She staid there with me awhile on the Caleb Starr place.
Q Where were you when she married? A I was on the Caleb Starr place.
Q Where was she when she married? A She was over in Ft. Smith, I think, hired out.
Q And there is where she married Sam Barnes? A Yes sir, I think so.
Q How long was that after you had got back from the Choctaw Nation?
A It was about one year I think, not quite a year; it was about six months.
Q She staid with you awhile on the Starr place and then hired to do some work over at Ft. Smith and there married? A Yes sir.
Q And where did she live after that? A Lived up on Lee's Creek there close by me.
Q How long did she stay at Ft. Smith? A I don't know exactly; not very long though; I don't recollect now just how long it was.
Q How long had she been married before you saw her; how long was it after her marriage that yousaw her? A It was about two or three months I guess.
Q You saw her two or three months after she was married? A Yessir.
Q Where did you see her? A She come over to my house there on a visit, on the Caleb Starr place.
Q What creek was that yousaid she lived on at one time? A Lee's Creek.
Q How long had she been married when she began living on Lee's Creek? A She had been married as well as I can recollect, then about four or five years.

Q And she had quit work in Ft. Smith then had she, and gone to live on Lee's Creek? A Yes sir.
Q What was her husband doing all that time? A Why he was farming he went to farming after he came over into the Cherokee Nation.
Q But during that four or five years before he lived on Lee's Creek, you don't know what he was doing do you? A Yes sir, he moved over there and was hired out.
Q Moved over where? A The other side of Ft. Smith in the coal bank.
Q He worked there until he moved up on Lee's Creek? A Yes sir.
Q Now Sa. Barnes, her husband, he makes no claim for himself as a Cherokee Freedman? A No sir, none as I ever known of.
Q He was working for wages up there about the coal bank I suppose? A Yes sir.
Q And after working there four or five years he then moved up on Lee's Creek and went to farming? A Yes sir, he was living over here when he was working in the bank; he had moved before he went to work over there.
Q What was his wife doing all that time when he was working at the coal bank? A She was working in the field there with me and my folks; they lived about three or four hundred yards from me.
Q You said just now she had come from over there up to Lee's Creek? A She did after they were married.
Q You said she came up there four or five years after they were married, and now you say she had come before that and lived with your which one of these can I rely on? A I said about five years he lived over here and went back to work the other side of Ft. Smith about five years after he was married.
Q He went back there about five years after he was married to work? A Yes sir.
Q Well then how long did he live over there after that? A After he had moved over here?
Q Yes.? A I don't know sir how long he worked; I couldn't tell exactly.
Q You now tell me that after he was married he came over here and worked four or five years and then went back to Arkansas and worked on a coal bank? A Yes sir.
Q That's what you tell me now is it? A Yes sir.
Q Well then how long did he work on a coal bank? A I couldn't tell you exactly how long he worked.
Q You told me awhile ago he worked four or five years on a coal bank? A No sir, I don't think I did; If I did I made a mistake.
Q How much was it you said, more or less? A It was less than that.
Q Whose coal bank was it? A It was called Jenny Lynn, over there about Huntington.
Q The town of Jenny Lynn? A Yes sir.
Q How long did he work over there about that coal bank off and on? A As well as I recollect it was about a year.
Q Not four or five years? A No sir.
Q Did he take his family along with him? A No sir, his family was over here living right by me.

Examined by Cherokee Representative, W.W.Hastings:

Q Who was living on the Cale Starr place at the time you were, immediately after you came back with your wife from the Choctaw Nation? A Ellis Harlin.
Q Did Ellis Harlin have some children living there? A He had two daughters.
Q What was their names? A Ruth a and Emma.
Q They were living on the place at that time? A Yes sir.
Q Did he have any boys? A Yes sir, he had one named Oce.
Q What was the other one's name? A I forget the other's name; he didn't come around there none, the other one didn't.

Q They were living there at that time? A Yes sir.
Q They were ingle and unmarried and living there on the place at the time with ~~your~~ their father? A Yes sir.
Q All of these children that you have mentioned? A Yes sir, all but One; I don't know whether he was married or not; he just come in and out; I don't know what he was; the girls though were single.

Com'r Breckinridge: The applicant states that he has lived in the Cherokee Nation all his life; he is now thirty-three years of age, but he is not identified on the roll of 1880 nor upon the roll of 1896 nor upon the Kerns Clifton roll; his mother is said to have died some ten years ago, and she is not identified on the roll of 1880; the testimony relating to his mother tending to establish that she came to the Cherokee Nation within the period required by the treaty of 1866, is of an indefinite character; a sister of the applicant's mother is on Cherokee Freedman doubtful card number 42, and the testimony of the husband of that sister, Colly Albert, is conflicting in its character; while this application is not established in any satisfactory manner, yet at present it will be placed upon a doubtful card for the further consideration of the evidence, and the final decision of the Commission will be made known to the applicant at his post-office address.

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M D. Green, being first duly sworn, states that as stenographer to the Commissione to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this May 6th, 1901.

Commissioner.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T. April, 18th 1901.

In the matter of the application of Jerry Albert for enrollment as a Cherokee Freedman, he being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q What is your name? A. Jerry Albert.
Q How old are you? A. 26.
Q What is your post office? A. Vian.
Q In what district do you live? A. Illinois.
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Who do you want to have enrolled besides yourself? A. Just myself.
Q How long have you lived in the Cherokee Nation? A. All my life.
Q Give me the name of your father? A. Golly Albert.
Q Is he alive? A. Yes sir.
Q Give me your mother's name? A. Martha Albert.
Q Is she alive? A. Yes sir.

The Kerns Clifton roll of the Cherokee Nation examined and the applicant identified thereon as follows:
Page 159, No. 3938, Jerry Albert, Sequoyah district.

The 1880 authenticated roll of the Cherokee Nation examined and the name of applicant not found thereon.

The 1896 census roll of the Cherokee Nation examined and the applicant not identified hereon.

By Com'r Breckinridge,-
The applicant states that he has lived in the Cherokee Nation all his life, he is not identified on the roll of 1880 or the roll of 1896; he is 26 years of age. He is identified on the Kerns-Clifton roll. He will be now listed for enrollment as a Cherokee Freedman on a doubtful card, and reference is made to his mother's case which is Cherokee Freedman Doubtful Card No. 42, for further evidence in this case.

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Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Subscribed and sworn to before me this the 18th of April, 1901, at Fort Gibson, I. T.

Commissioner.

File with Cherokee Freedman, D- 104, Jerry Albert.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Testimony on behalf of Cherokee Nation.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

WATT WHITMIRE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Watt Whitmire.
Q What is your postoffice? A Westville.
Q How old are you? A 48.
Q What is your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte Whitmire.
Q In what district did your father live before the war?
A Going Snake.
Q Was there any other Johnson Whitmire in Going Snake at that time, that was grown, an old man with a family? A No, sir, not as I know of; there was a Johnson, a son; he is younger than I am.
Q Well, he was born about the time or after the war came up, or when; about how old is he? A He is some thirty odd, some 37 or 8.
Q Did your father own some slaves when the war broke out? A Yes, sir.
Q Do you know whether or not your father or your mother owned a slave by the name of Martha when the war broke out? A No, sir, not as I know of; none by that name.
Q Did your father or mother own a slave by the name of Nancy, a woman? A No, sir, not as I know of.
Q This Martha, according to her statement, would be some 14 or 15 years of age at that time? A No, sir, I don't recollect nary one by that name.
Q You are Johnson Whitmire's son? A Yes, sir.
Q You were living at home at the time the war broke out? A Yes, sir.
By A. S. McRea: Mr. Whitmire, how many slaves did your father own?
A I don't know the exact number.
Q Were you acquainted with the names of all the slaves of your father? A Why I believe I recollect the oldest, I don't know that I recollect the smallest children's names, of all.
Q About what was approximately the number of old slaves? A Well, I will have to count them up.
Q Well, give an approximate statement? A About 12 or 14, or somewhere along there; I don't know just exactly.
Q Did he own a slave by the name of Nancy? A Not as I recollect of; I don't recollect any such name.
Q About how old were you at the breaking out of the war? A I was born in '32; I believe the war broke out in '62, wasn't it; about '61.
Q You were about 8 years old? A 8 or 10 years, somewhere along there.
Q You couldn't be have possibly owned this female girl and you not have a recollection of it? A I recollect all I s names from my size up, but I don't recollect of any such name of Martha. There wasn't but two girls, and one was named Mary and one Nannie.
Q They were the only two female colored girls of the ages of 12 or 14 years old? A Well, they were younger than that; Nannie was younger than that and Mary was I reckon maybe one or two years older

than me, I don't know exactly, but I just judge fr m her size.
Q Well now, do I understand you to say this number of fourteen or fifteen adults, or older slaves, did they have any children? A Oh yes, that included men and women together.
Q Included men and women together? A Yes, sir.
Q Did they have any children? A Yes, sir.
Q Do you remember the names of them all? A Well not of all, I remember the names of some of them.
Q About how many children did each family have? A Well, there was one woman by the name of Fronie had one child named Susie, and there was an old lady named Sukie had two or three, and I don't recollect the names of but one boy, his name was Joe, and this girl Nannie I spoke of was the child of old Aunt Sukie; and there was one by the name of Rachel, I don't recollect just how many children she had, but one or two or three, somewhere along there; they were quite small when the war broke out.
Q That is all the children? A No, sir, I don't recollect just how many children there were in the while family of the darkies, but there was Rachel's children, and Aunt Sukie's children, and Fronie's child, one child, I believe isall I recollect of.
Q Well, where did your father's slaves go during the war? A Well I can't tell you exactly; my understanding is they went north.
Q That they all went north? A Yes, sir, part of the men folks left here before I left the old place, and when I left there I left part of the women folks at home, at the old home place.
Q Leave any of the children? A Yes, sir.
Q Have you any recollection what became of them? A No, sir.
Q Did you ever see any of them any more? A No, sir, never saw any ~~more~~ of them any more at all.
Q Did you go away yourself? A Yes, sir, taken away.
Q Where did you go? A Went from there to Cane Hill, Arkansas.
Q When did you return? A After peace was made; went on from Cane Hill south.
Q Have you any acquaintance with this alleged party to this suit, Martha Albert; are you acquainted with her? A No, sir.
Q Don't know her? A Don't know her at all.
Q How long have you lived in the Cherokee Nation now since your return from Cane Hill; was that the place you went to? A Went from the Nation to Cane Hill and from Cane Hill went south in the Choctaw Nation.
Q Then when did you return from the Choctaw Nation to the Cherokee Nation? A Returned in '67.
Q To what point? A Back at the old home place in Going Snake district.
Q You have lived here continuously ever since? A Yes, sir.
Q Were you extensively acquainted with the colored people in and around, or rather in Going Snake district? A Yes, sir.
Mr. Hastings: Now as I understand you, Mr. Whitmire, you stated that you remember all of the slaves that were of your age and older, but those that you don't remember were those that were younger or smaller? A Yes, sir; I remember some that were younger than I was, them that I called a ~~yank~~ while ago.
Q You are positive your parents didn't own a slave by the name of Nancy? A No, sir, none that I know of, there wasn't any Nancy on the place, and I believe I can call the names of all the women.
Q Are you positive your parents didn't own a girl older than yourself named Martha? A No, sir, wasn't any on the place named Martha.

J. W. ALBERTY, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A J. W. Alberty.

Q Mr. Alberty, what is your age? A Well, I am 67 years old.

Q What is your postoffice? A My postoffice is Westville, Indian Territory.

Q What district do you live in? A I live in Going Snake district.

Q You a Cherokee by blood? A Yes, sir.

Q Mr. Alberty, where did you live in the Cherokee Nation before the war? A In Going Snake district.

Q Near where you now live? A Yes, sir.

Q Did you know Johnson Whitmire? A Yes, sir.

Q Did you know him before the war? A Yes, sir.

Q How far did you live from him? A Well, it was about ten or twelve miles, I reckon we called it.

Q Did you know his family? A Well, yes I knew his family.

Q This witness here before, named Watt Whitmire, was he a son of Johnson Whitmire? A Yes, sir.

Q I will ask you if you were acquainted with a colored man by the name of Charles Boland before the war? A Yes, sir, he was a mixed blood, free.

Q I will ask you if you knew a colored woman by the name of Nancy Whitmire, alleged to have belonged to Johnson Whitmire before the war? A Yes, sir, I knew her.

Q Now, if you know what became of Nancy Whitmire and Charles Bola nd I wish you would make a statement to the Commission? A The Whitmire boys sold Nancy to a man named Dillingham, and he moved right across the line from where I lived, five or six miles, and owned them there until he moved off to Texas, Charles Boland and Nancy; I knew them better after Dillingham got them than I did before.

Q Who sold them to Dillingham? A The Whitmire boys, George Whitmore and Johnson Whitmire; they were brothers and they sold them at the time they divided up the property.

Q Now about how long before the war was that they sold them, about what year? A I reckon it must have been in 47 or '8, I haven't got the dates, I wasn't expecting anything of this kind, and I didn't get the dates, but it must have been in '47 or 8.

Q What was Dillingham's citizenship? A He had none.

Q Was he a white man or Cherokee or what? A He was a white man and lived in the state.

Q What state? A Arkansas.

Q Lived across the line in the State of Arkansas? A Across the line, yes, sir, in the State of Arkansas.

Q Do you know what finally became of him out there? A Mr. Dillingham, in about '50 or '51 moved to Texas and carried the family, and Boland went with them, he was free but he followed this family off to Texas.

Q Do you know whether he had Nancy for a wife or not? A Yes, Boland had this Nancy for a wife, and claimed the family, and when Dillingham carried the family off he went with them.

Q How far did this man by the name of Dillingham live from you?

A About five or six miles.

Q Now how far did you live from the Cherokee line up there?

A Well about that time I only lived about half a mile, right at it.

Q On the west side of the Cherokee and Arkansas line? A On the west side of the Cherokee line.

Q And Dillingham lived on the Arkansas side? A On the Arkansas side, just over near what is called Dutch Town or Salem.

Q He laid no claim to Cherokee citizenship? A No, sir, not a bit; he had a son that was adopted, but the old man had none.

Q And I believe you stated that along about '50 Dillingham carried these people to Texas? A He carried them to Texas.

By A. S. McRea: I understand you to say Johnson Whitmire sold Nancy? A Yes, sir.

Q Nancy Sheppard then did belong to Johnson Whitmire? A Yes, sir, she did belong to Johnson Whitmire; there were two brothers of the children, George and Johnson Whitmire, and they owned an interest in them and they both sold their interests.

Q About what year was that? A Well sir, I can't positively say, but it was in or about '47 or '8; I have nothing to guide me by.

Q Do you know Martha, the child of Nancy? A No, sir, they were all small when they went off, I don't know any but a boy they called Ellis; Dillingham brought him back with him just a little while before the war came up.

Q Did Nancy have children when Johnson sold her? A Yes, sir.

Q Did he sell the children with her? A Yes, sir.

Q Nancy's whole family was sold? A The whole family went, yes sir.

By A. S. McRea: Mr. Alberty, where do you live? A I live in the eastern part of the Cherokee Nation here.

Q And you say Johnson Whitmire sold Nancy, the alleged mother of the applicant, Martha Albert, in 1847? A I didn't say the time he sold her, because I don't know that, he sold Nancy, Charles Boland's wife to Dillingham, and the children, but I don't know nothing about Martha at all, I didn't say the mother of her, but if she is the daughter of Nancy, why she - -

Commissioner: Was sold with the balance, was she? A Yes, sir, sold with the balance; the whole family was sold.

A. S. McRea: To whom did you say they were sold? A Dillingham.

Q Where did he live? A He lived in Texas.

Q Do you know of your own knowledge that this woman, Nancy, went to Texas? A Yes.

Q How do you know that? A I saw them start.

Q Did you see them arrive? A I didn't see them arrive in Texas, but I saw them start on the road.

Q Do you know whether or not, of your own knowledge that they arrived there? A No, sir, I can't say that, but I guess from all the circumstances they did.

Q What fixes it on your mind so very definitely that they were sold in '47? A Well, just as I said before, I said I wasn't positive about that, but it was in or about that time.

Q For how much was she sold? A Well I can't exactly say now what they did bring, because they got some horses and some cattle and some money.

Q How many horses? A I can't answer that question.

Q How many cattle? A I don't know.

Q How much money? A Well, I don't know that that would amount to anything, because it was satisfactory to them.

Q You say they were sold and we want to know what was the status of the sale? A Well I don't know the amount that they got for them, I can't say.

Q Did you see any money exchanged? A No, sir, but after that they changed hands, the darkies went.

Q It is true, they could possibly have changed hands without any sale? A Well hardly them days.

Q Then in so many words, you don't know whether that was a bona fide sale or not or your own knowledge? A Well, of my own knowledge, I would have to say it was a bona fide sale, or else he wouldn't have taken them out of the Cherokee Nation.

(Foregoing answer read by stenographer at request of attorney for applicant.)

Witness: Yes, sir.

McRea: He said you would suppose it was a bona fide sale.

Commissioner: Was that your answer?

Witness: A Yes, sir.

Commission: How long after the sale was it before Mr. Dillingham took them to Texas? A It must have been 3 or 4 years, they lived right there close neighbors to us two or three years after they

bought them.

Q With whom? A With Dillingham, in the State of Arkansas.

Q Then when the sale was made Dillingham at that xxx time was living i Arkansas? A Yes, sir.

Q Is your first statement that he was living in Texas correct, at the time of the sale? A No, sir, I didn't make that, he was living in Arkansas and moved to Texas, I said, in about '50 or '51 and taken them with him in about '50 or '51.

McRea: I would like to examine the face of the record.

Commissioner: The record shows for himself. If the witness contradicts himself the record shows it. I think the witness did state when you asked him where Dillingham lived, that he lived in Texas, but you didn't specify the exact time when he lived, but the witness stated plainly now at the time Dillingham bought the slaves he lived in Arkansas and moved to Texas a few years after.

McRea: Did you ever see Nancy Whitmire any more? A Well, I never saw her after he moved off to Texas with her.

Q Are you acquainted with Martha Albert, the applicant in this behalf? A No, sir.

Commissioner: You don't know Martha at all then? A No, sir; well there were several children, but I don't recollect their names; there were several children then only they were small.

Q You have never seen the averred mother of Martha, Nancy, after Dillingahm took her to Texas? A No, sir.

McRea: And you don't know whether or not this woman, Martha, was one of the number of these children that accompanied the mother, Nancy, to Texas or not? A No, sir, I don't.

Commissioner: Did Nancy have children to your recollection? A Yes, sir.

Q You don't recollect how many? A Well, no I don't, there was three or four, four children, there might have been more and might have been less.

Q Know whether they were boys or girls? A There was one boy.

Mr. Hastings: I believe you states that these children that she had went with her? A Yes, they all went with her.

McRea: About what was the age of these children? A Well, they were small, they were not very large.

Q 3, 4, 5, 6 xxxxx or 10 years, something like that? A Well, he must have been 6 or 7 or 8 years old, maybe 10, I can't state that.

Q Was that a girl or a boy? A I think the oldest one was a girl.

Commissioner: This testimony will be made part of the testimony in the cases, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152, D-146, D-182. Attorney McRea for applicant objects to testimony being filed in the case of Robert Barnes et al., and the objection is overruled.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 5th of September, 1901.

Commissioner.

File with Cherokee Freedman D- 104, Jerry Albert.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 11, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Supplementary evidence introduced on behalf of applicants.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

The Commission: Now Mr. McRea, state briefly what you desire to prove by this witness.

A. S. McRea: Applicant desires to offer testimony in behalf of herself et al., by Sam Barnes, showing that mother of applicants did return to the Cherokee Nation within the time of the treaty stipulations, and that so far as the sale of she and her mother to one Dillingham, it is untrue.

The Commission: When you speak of the applicant, I suppose you mean Martha Albert?

McRea: Yes, Martha Albert and others.

Mr. Hastings: The Cherokee Nation objects to the applicant being allowed to introduce any testimony in this case on the question of the return of any of the applicants, for the reason that applicants introduced their testimony on both ownership and return, and the Cherokee Nation introduced testimony on both, and the only testimony which can legally be introduced by the applicant now as testimony in rebuttal of new matter brought out by the Cherokee Nation in its testimony.

The Commission: The objection of the Cherokee Nation will be noted.

S. B. BARNES, appearing before the Commission and being duly sworn and examined, testified as follows:

A. S. McRea: Give us your name, Mr. Barnes? A S. B. Barnes.
Q Your age? A About 57, going on 58.
Q Postoffice address? A Bunge.
Q Mr. Barnes, are you acquainted with the applicant, Martha Albert? A Yes, sir.
Q How long have you known her? A I have known her going on 37 years.
Q Do you know whether or not she was a slave in the Cherokee Nation before the war of the rebellion?

Mr. Hastings- I object to that, both because the very testimony itself shows that he didn't know that; said he hadn't known her but 37 years.

Commission: Ask him the question.

Q Where was she when you first knew her? A She was down here right close to Cherokee.
Q Where is that? A That is down right on the line, at the Cherokee Junction.
Q Was that in the Cherokee Nation? A Yes, sir.
Q Did you know her mother? A Yes, sir.
Q What was her mother's name? A Nancy.
Q How long had you known the mother? A I got acquainted with her in '82.
Q Where was she when you first met her? A I met her down there.
Q In the Cherokee Nation? A Yes, sir.
Q Do you know whether or not they went out of the Cherokee Nation

or not?

Mr. Hastings: He says he never met them till '64 and '65; you ought to know that he can't testify to that.

McRea: He might have heard; we have been taking hearsay testimony.

Commission: Answer the question.

A I don't know.

Q Did you ever hear of the mother of your wife, Sarah Barnes, having been sold to a man by the name of Dillingham?

Mr. Hastings: Objected to by the Cherokee Nation on the ground of hearsay.

Commission: Ask him if he knows.

Q Do you know? A No, sir, I don't know it.

Q Did your wife ever tell you they were sold.

McRea: What his wife told him is admissable.

Mr. Hastings: Objected to by the Cherokee Nation on the ground that it is clearly inadmissable, it being hearsay testimony, and a declaration in interest of the party.

Commission: Let him answer the question.

Q Did your wife ever tell you whether or not she and her mother were sold to Dillinghamof Arkansas? A No sir, she never did.

Q I will ask you if you and your wife ever had any conversation pertaining to her citizenship?

Mr. Hastings: Objected to by the Cherokee Natich for the reason that it is clearly hearsay and inadmissable.

McRea: That is not hearsay testimony.

Commission: I will let him answer the question.

Mr. Davenport, Cherokee attorney: I will object on the ground that he can't testify for or against his wife, under the rules of law. I think I recollect that the Commission has served notice that it would follow the ordinary rules of evidence.

McRea: The Commission served notice that it would not confine itself to the different rulings and technicalities of law in trying testimony in this matter.

Commission: Go on with the examination, Mr. McRea.

(Question read to witness by stenographer.)

A Why Of course, she met the John Chambers Court at Tahlequah.

Q Where did you marry your wife? A Marry her; we were engaged here in the Cherokee Nation but we were married at Fort Smith.

Q She was living in the Cherokee Nation when you courted her?

A Yes, sir.

Q Now when did you marry her? A I married her in November, '66.

Mr. Hastings: Where did you live before the war? A I lived in Texas.

Q What county? A Fannin County.

Q What was your owner's name? A Higginbotham.

Q What was his first name? A Thomas Higginbotham.

Q What was the nearest town to you? A Bonham.

Q Did you know Jerry Starr down there? A No, sir.

Q Did you see your wife down there? A No, sir.

Q You didn't? A No, sir.

Q Did you see Nancy Whitmire, or Nancy Boland, down there? A No, sir

Q See Martha Albert? A No, sir.

Q How old are you? A I have turned 58 years old.

Q What is your father's name? A My father, Bob Barnes.

Q When did you leave Texas? A I left Texas directly after the war ended.

Q Well, did you make a crop down there the year the war ended?

A I wasn't big enough, I didn't make no crop.

Q Who were you living with? A I was living with my old mistress.

Q She wasn't a Cherokee? A No, sir.

Q Well, did you make a crop with your old mistress, or for her, that year? A Yes, sir.

McKen: I object to all that; it is irrelevant to the question at issue.

Commission: Answer the question.

Q You made a crop for her you said? A Yes, sir.
Q The year the war ended? A Yes, sir.
Q How then you stayed there that year? A I kept there just as the war was on.
Q I thought you said you made a crop there? A I did.
Q Then you held that crop by, did you? A The war came to an end in the spring of '65 if I understand anything.
Q Well, how did you come to leave Texas and who did you go with?
A I came by myself.
Q Just alone? A Yes, sir.
Q Some stock? A No, sir.
Q How did you come? A I had a horse.
Q Well, where did you come to? A I came to Fort Smith.
Q You had never been to Fort Smith before? A No, sir.
Q You had never heard of Fort Smith in your life before? A Oh yes sir, I hadn't been dead I don't reckon, I was a man.
Q How far below Fort Smith did you live when you lived in Texas?
A From Fort Smith?
Q Yes? A You mean just out on the river?
Q In Texas? A It is about 800 miles.

McKen: I object to that, the question is misleading in its nature, and I object to it.

Commission: He has already answered the question.

Q You came direct to Fort Smith? A Yes, sir.
Q Who did you work for there? A I worked for Bill Belt, five miles out south of town.
Q How long did you work for him? A I worked there a couple of weeks, or about a week, or couple of weeks.
Q Then where did you go? A I crossed over here in the Cherokee Nation.
Q What induced you to leave down there and leave your folks and go to Fort Smith at that time? A Just because I had a notion to go to Fort Smith.
Q Then what induced you to leave Fort Smith after being there only two weeks and go over on the Nation side? A Just because I wanted to go.
Q You didn't know anybody over there, did you? A No sir.
Q You had never seen a soul? A Of course I had seen people.
Q You had never seen one of them over there at Fort Smith?
A Not from across the Cherokee Nation side, across the river; why I saw people down in Fort South out of the Cherokee Nation.
Q Who did you meet that lived on this side of the river, at Fort Smith? A I met Tom Stonecroad and Mrs. Franklin, I don't know how many people I didn't meet.
Q Whose place did you go to on this side of the river first? A I was at Mr. Stonecroad's place the first place I was at, right on the line.
Q How long did you stay there? A I didn't stay there but an hour or two.
Q Then where did you go? A I went back to town.
Q How long did you work there in town? A I don't know exactly how long.
Q A year? A I don't know exactly how long I worked in town.
Q Or a day? A I might not have worked there more than two hours, I don't know.
Q Don't know whether it was an hour or an year? A Yes, sir, I did not know how long.

McKen: He has answered that he don't know.

Commission: Let him answer the question.

Q About how long? A I worked there off and on three different times.

sometimes I would be in town a week and sometimes not but a day or two and sometimes two or three days.

Q Where were you making headquarters, or home? A I made headquarters sometimes out at Bill Bell's and after that I worked for Tom Stoneroad some right on the line of the Cherokee Nation.

Q How long did you say a while ago you had been married? A I said I married in November, '66.

Q How many years did you say that was? A I didn't say nothing about the years.

Q Who married you? A I was married by the clerk.

Q What was his name? A I don't know his name.

Q Clerk of what court? A Clerk of the Court there, at Fort Smith.

Q On the Arkansas side? A Yes, sir.

Q You got a license over there, and he married you? A I think I got license.

Q Now what is your full name? A Sam Barnes is my full name.

Q What is your wife's name? A Her name was Jennie.

Q Jennie what? A Jennie Boland.

Q She is a sister to Martha Albert? A Yes, sir.

Q Younger than Martha? A Yes, sir.

Q Have you ever been married before? A Yes, sir, had been married twice before.

Q Where had you been married? A In Texas.

Q What was your first wife's name? A Anna.

Q She dead? A Yes, sir.

Q What was your second wife's name? A Name was Mandy.

Q What year was it they had that investigation, that Chambers Court you speak of? A That was in '78.

Q Was your wife admitted or rejected? A Must have been rejected by us having to be here.

Q Did you make a statement up there before that court? A Yes sir.

Q You never saw your wife before the war? A No sir.

McRea: Did you see the mother, Nancy Boland, of your wife and Martha Albert, here in 1866? A I seen her here, yes sir.

Q In the Cherokee Nation? A Yes, sir.

Q Is she living now? A Who is that?

Q The mother, Nancy Boland? A Oh no, she died in '66.

Q Where was she buried? A Buried on this side the river there somewhere.

Q In the Cherokee Nation? A Yes, sir.

Q Did you see the father, Charles Boland I believe was his name? A Yes, sir.

Q In '66 here in the Cherokee Nation? A Yes, sir.

Q Is he alive now? A No, sir, he is dead.

Q When did he die? A He died in '72.

Q Where was he buried? A He is buried on Lees Creek.

Q In the Cherokee Nation? A Yes, sir.

Mr. Hastings: On whose place is Nancy Boland, the mother of Martha Albert and also of your wife, buried; who owns that place now?

A She was buried at what was called the Jack Campbell graveyard, my wife.

Q This Nancy Boland, where is she buried? A She is buried I think at Mrs. Franklin's graveyard.

Q Do you know it? A That is where I was told she was buried.

Q What time did she die? A She died in '66.

Q Spring, summer or fall; before you married or after? A Just before I married.

Q Did you ever see her? A Seen her many a time.

Q In Texas? A No sir, never seen her in Texas.

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Mr. Hastings: Notice is hereby served on the attorney

in the case of Martha Gilbert and the referred cases, that the Cherokee Nation desires to introduce testimony in them on Friday, the 25th inst., between the hours of eight in the morning and five in the afternoon.

Notes: The applicant will on said date introduce additional testimony in the case at bar.

Commissioner: This testimony will be filed in the following Cherokee Freedmen cases: D-42, D-448, D-182, D-99, D-106, D-107, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152.

***********

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C Jones

Sworn to and subscribed before me this the 15th of September, 1901.

Commissioner.

File with case of Jerry Albert, et al., C.F.-D.#104.

Supl. C.F.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 17, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen, introduced on the part of the Cherokee Nation.

APPEARANCES:
W. W. Hastings, Attorney for Cherokee Nation;
A. S. McRea, Attorney for applicants.

J. W. HUGHES, being duly sworn, testified as follows on part of the Cherokee Nation. BY MR. HASTINGS:

Q What is your name? A J. W. Hughes.
Q Post office? A Ramey.
Q What is your age? A 53.
Q Are you a citizen of the Cherokee Nation? A Well my wife and children are, I wasn't married according to the Cherokee laws.
Q When were you married? A I were married in '69, July, '69.
Q Where did you live that year after you were married? A I lived in the Indian Territory on Joe Purdue's place on Webber creek, in a mile and a half or two mile beyond Big Lees creek.
Q That is in Sequoyah district? A Yes, sir.
Q And about how far from Fort Smith, Arkansas? A Well, according to the line straight through, about eight miles.
Q Do you know Colly Albert, a colored man? A Yes, sir, I was acquainted with him there.
Q Were you acquainted with his wife, Martha Albert? A Yes, sir.
Q Did you know Martha Albert's father? A Yes, sir, that is what they claimed to be her father.
Q Well, what was his name? A His name was Boldan, I could not tell you what his given name was. He claimed his name was Boldan.
Q Well, he was recognized there as the father of Martha Albert?
A Yes, sir.
Q Did you know Martha Albert's sister, Jennie Barnes?
A Yes, sir, I was well acquainted with them, lived in a half mile of them about four years.
Q Did these children do any work for you in these early days, '69 or '70? A Well, in the year of '70 when I was living there on the place they were living a quarter or half a mile below me, I rented a place from Joe Purdue and they were living joining that place, and I hired them to chop cotton for me and also to pcik cotton and work; and do some other work making rails and fixing fence, and I worked there with them two or three years; they worked for me.
Q Did you ever have any talk, or hear any members of this family make any statement as to where they come from and their whereabouts prior to that time? A I have heard Boldan and his daughter, Colly albert's wife, I never have heard Colly speak anything concerning it as I remember at this time.
Q Well, from Boldan or Colly's wife, Albert? A I heard Boldan-

Mr. McRea: I object to anything Boldan said.

Commission: Note the objection and answer the question.

A I heard him saying he was in Texas; he claimed himself to be part Cherokee, if I mistake not, and that he was not a slave; he claimed that he was not but his wife and children-seems to me he had two children-and they were sold out of here and was carried to Texas by somebody, and I don't remember just who he said carried them away, but the best I remember about it that he had two children, Martha and Jennie, two girls, if I mistake not, as near as I can possibly think of it not at the present, and that he went along for his childrens' sake was what I seemed to understand from his talk,

and that he still lived there until the war closed and moved back, but I never was acquainted with him until '69 or '70.
Q Well, did he say when they went to Texas? A No, si r, I don't remember.
Q Well, as to the war, or before the war? A It must have been before the war.
Q Did he say that his wife and children were sold? A I think he did, I won't be positive about that, but I think he did. I remember one thing he told me, he was mighty jokey and working for me there picking cotton and chopping cotton and talking about his ups and downs down there in Texas, and what makes me think that you know, I asked him you come from down here in Texas and he spoke about his wife and children being sold out, and if I mistake not, he told me before the war they were sold out, I won't be positive about that, but it seems to me that he did, and then at the close of the war, or after the war a while, he come back, but I don't remember anything about the time, date; I never was acquaint ed with him until '69, we made a crop there that year and how come me to get acquainted with him is what I say, I had rented that place of Joe Purdue's on the creek and we made a crop there that year and I made a crop there in '70.
Q Well, did you ever hear Martha Albert say anything about her whereabouts, where she came from? Well she claimed, if I understand it, she claimed that she come from Texas.
Q Do you remember whether you ever heard Jennie Banres saw anything about where she come from? A I never heard Jennie Barnes say anything about it, she was not about our house, but these others they worked for me a great deal.
Q Do you remember whether Boldan made any statement as to who his wife formerly belonged to up here in this country before the war?
A I just don't remember.

Mr. McRea: I object to that.

Commission. Your objection will be noted.

A It seems t o me that she was a whitmire, I won't be positive about that now

MR. McREA: Mr. Hughes, you say your first acquaintance with Martha Albert and her family was in '69 or '70? A First acquaintance was '69, and in the fall of '69.
Q You knew nothing of them before that? A No, sir, I did not know them before '69, I could not tell you just what time of the year, but it must to have been, the best knowledge I have about it now, was in '69, and what makes me think so I was married in '69, in July.
Q When was the last time you saw Martha Albert? A I suppose it must have been two or three years ago the last time I remember seeing her, two or three years ago.
Q Did you ever give testimony in this matter before?
A I never have, never was called on.

Commission: This testimony will be made a part of the record in the following cases: D.#42, D.#146, D.#182, D.#99, D.#100, D.#101, D.#102, D.#103, D.#104, D.#106, D.#114, D.#150, D.#151, D.#152.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J O Rosson

Subscribed and sworn to before me this September 15th, 1901.

Commissioner.

[redacted]

Q To whom did she belong previous to the Rebellion? A Johnson Whitmire.
Q Was he a Cherokee Indian? A Yes sir.
Q Was she sold by Whitmire previous to the Rebellion? A Yes sir, I think she was.
Q Do you mean this applicant? A No sir.
Q Did he have two slaves by the name of Martha? A Yes sir, one was called big Martha and the other little Martha.
Q Which one was sold? A Big Martha was sold.
Q Was this one little Martha? A Yes sir.
Q Was she sold? A No sir, the other one was sold to Dillingham.
Q Do you know who took her out of the Cherokee Nation when the war broke out? A This one?
Q Yes? A I think it was Cornelius Wright.
Q Was he the boss who took the Whitmire niggers out? A Yes sir.
Q Did you, at any time during the war or at the close of the war, see this applicant anywhere, and if so, where? A After the close of the war I was down there in the Choctaw Nation on Red River, and I learned from the Choctaws that there were a lot of refugees there. I looked out for them, and found some of the Whitmire slaves.
Q Was that in the Choctaw Nation? A Yes sir.
Q When was it? A I think to the best of my knowledge, that it was in the fall of '66.
Q Do you know of your own knowledge when she returned to the Cherokee Nation? A No sir, I don't.
Q What was this woman's mother's name? A She went by the name of Nancy.
Q What was the name of the other Martha Whitmire's mother? A I think her name was Dicy.
Q Her name was Dicy Whitmire before she was sold by Whitmire?
A Yes sir.
Q Was her name Dicy Whitmire or Dicy Shepherd? A They always went by the name of their master.

MR. HASTINGS:

Q When is your birthday? A I think it was about '43, but I ain't right sure about it.
Q You have never had a birthday since? A No sir.
Q You didn't have one last year? A Yes, my birthday comes around, I guess.
Q When was it? A In August of '43, I think it was.
Q But you are about 60 years old? A Yes sir.
Q Do you remember about the year that Dicy, the mother of Martha, was sold to Dillingham? A It was two or three years before the war.
Q Who else was sold at the time Dicy was sold to Dillingham? A There were two or three children.
Q What were their names? A One of them was called Martha.
Q Where did you live at the time? A Right up above Whitmire's up in Going Snake District.
Q Watt Whitmire lived there with his father didn't he? A If he did he was very young.
Q You say it was only three or four years before the war? A Well I don't know his age.
Q Who did you get a letter from about a week ago to hunt up testimony in this case? A I didn't get one from anybody.

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Q Did you ever get one from anybody with reference to hunting up testimony in thiscase? A I saw Mr. Rogers.
Q What Mr. Rogers? A That man over there behing Mr. Neal.
Q What interest did he have in the case? A I couldn't tell you. He just asked me to go over there and see if I could find anybody that knew these people.
Q Who did you go to to ask? A Mrs. Susie Walkingstick.
Q What interest did you have in going around over the neighberhood asking people if they knew about the peple in this case? A They had asked me to do it as a favor
Q Didyou have my interest in the case? A No sir.
Q How many slaves did Johnson Whitmire have when the war came up?
A I don't know---- several.
Q Let's have the names of some of them? A One was called Dicy, one Nancy, Emma, Rachel. I believe thatis all I know the names of. There were several more, but I don't remember their names.
Q How far did Jack Alberty live from Johnson Whitmire? A About 8 miles.
Q How far did Jeff Tik-nee-sky live from Johnson Whitmire? A About three or four miles.
Q Do you swear that Johnson Whitmire owned this slave and her mother when the war came up? A Of course he owned them.
Q You will swear that? A Of course I will.
Q And he owned her mother at that time? A Yes sir.
Q Was she very old? A Not very.
Q Did she have any more children? A I don't know. I wasn't that well acquainted with her. I was over there a good deal, but I didn't know about her business.
Q Don't you know whether she had any other children besides this Martha? A I don't know.
Q Didn't she have one older than Martha? A I don't know.
Q And didn't she have two younger than Martha? A I don't know
Q But you knew Nancy and Martha? A Yes sir, but I met them out on Red River after peace was made, and that is how I knowed so much about them.
Q You didn't know that she had a brother or any sisters? A She had some brothers I guess.
Q What were their names? A One went by the name of Nelson, one was Aaron, and one was Lewis.
Q Who did they belong to? A I think they were kinder in partnership between Johnson Whitmire and George Whitmire.
Q Did you know the father of Johnson and George Whitmire? A No sir.
Q He died long before the war, didn't he? A I guess so. I never knew him at all.
Q When did Dillingham get Dicy? A I don't know about that.
Q Who took this applicant and her mother south? A Cornelius Wright.
Q Is that Cale Wright's father? A Yes sir.
Q Then Cale Wright would know about that? A I guess he would.
Q How do you know they went south with Cornelius Wright? A They told me so.
Q How old was this applicant when the war came up? A I could not tell you. I was about 15 years old, and she wasn't as large as me.
Q Was she five years old? A I don't know.
Q Was she three? A I don't know.
Q Was she two? A I have no idea about her age.
Q Do you mean to tell this Commission under oath that you knew this particular girl and yet can't tell whether she was 15 or two years of age? A I've told you.

Q What is your best judgment if you are going to tell the truth?
A I guess she was 13 or 14 years old.
Q You say she went south with Cornelius Wright? A Yes sir.
Q Did Gale go with his father? A I don't know whether he did or not.
Q Weren't you in the neighborhood? A No sir, I was a soldier
Q Who was the reputed father of this applicant? A I never knew him.
Q Did you everknow of a free nigger by the nameof Charley Bowland? A No sir.
Q He didn't live around there? A He might have, but I didn't know him.
Q He didn't go over with Dillingham? A I don't know.
Q You would have known it if he had? A I might not have seen them when they left, but just heard of it.
Q You know that Dicey went off with Dillingham? A Yes sir.
Q And she had a child by the name of Martha? A Yes sir.
Q And you swear that this Nancy and her child Martha were living there with Johnson Whitmire in Going Snake District when the war came up? A Yes sir.
Q And yet, you do not know how old she was? A I guess she was 13 or 14 years old.
Q How long waswit immediately before the war that you saw this child at Johnson Whitmire's? A I was around there several times, and I don't know just when was the last time.
Q When was the last time you were at Johnson Whitmire's before the war? A I couldn't tell you that.
Q You must tell us what isyour best judgment. You are under oath now? A In those days I didn't keep any account of my whereabouts. I was a young man, and didn't keep no account.
Q Were you in the country when the war came up? A Yes sir.
Q How long before the war came up was it that you were at Johnson Whitmire's? A Just a short time.
Q How long before the war was it that you saw Nancy at Johnson Whitmire's? A I couldn't tell you.
Q Was it ten years? A It might have been.
Q It might have been 15 years? A It might have been.
Q You are not going to be positive on that point? A No sir.
Q It might have been as much as four or five years before the war that you last saw Nancy and this child at Johnson Whitmire's?
A It might have been a year or six months.
Q When were you at Jeff Tik-nee-sky's you didn't know anything about these people? A Yes I did.
Q Did you tell him that you knew them -- that you knew this applicant's mother? A Yes sir.
Q Did you tell Jeff what you hadtold on this stand? A I told him that I knew of one being named Nancy, and I told him the other one, I told him of the one that Dillingham took out--that that one was called Dicy and her daughter was called Martha.

MR. NEAL:

Q Didyou go into the army when the war first broke out? A Yes sir.
Q Were you around there until you went off to soldiering? A Yes sir.
Q Then you were in that neighborhood until the war broke out?
A Yes sir.
Q In your cross examination you told Mr. Hastings that it might have been 10 or 15 years or six months that you lived within two miles of Johnson Whitmire and didn't go from there. Do you say that you lived there that long and didn't go short big

place? A Yes sir.
Q Then you don't know whether you stayed there five years before the war or not? A No, I couldn't tell you how long it was. I was over there now and then.
Q Every four or five years or what? A Maybe every two or three weeks.
Q Were you over there every two or three weeks before the war broke out? A Yes sir, maybe it would be a month.
Q Do you mean to say that before the war broke out you were over there every three or four weeks or every four or five years?
A It was a short time.
Q Were you over there every week or two or every year or two?
A Every week or two.
Q When you said you didn't know how long it was, you meant that you didn't know how many days it was before you went to the army? A Yes, sir.
Q Did you see Andy within a month or six weeks befor you went away? A Yes sir, I think so. It has been a long time ago and a man can't remember all of these things. Lots of things have slipped my memory.

MR. HASTINGS:

Q Wasn't Watt Whitmire, being a son of Johnson Whitmire, in a little better position to know what slaves his father had than you were? A I guess he would. He knew them better than I would for he was with them every day.

COMMISSION:

Q When were you last at Johnson Whitmire's before the war broke out? A I couldn't tell you exactly.
Q What isyour best judgment? A It might have been two or three weeks or a month.
Q Was it within a short time before the war broke out? A Yes sir.
Q Do you state now as a positive fact that when you were there the last time, that you saw this applicant there? A Yes sir.
Q The last time you were at Johnson Whitmire's before the war she was there. Do you state that as a fact, now? A Yes sir, she was there, but she never was taken out of there.
Q Well, she was there or else she was not? A Yes sir, she was there, but she never was sold out.
Q Were any of the other slaves there? A Yes sir.
Q How often have you seen this witness since the war? A Just one time -- then I saw her yesterday or the day before. I saw her out on Red River before '65.
Q Since '65 up to a couple of days ago you haven't seen her at all
A No sir.

(Witness identifies his signature attached to an affidavit which is shown him).

Q Are you willing to swear now, Mr. Alberty, that this woman, whom you haven't seen for 40 years is the same woman that you saw at Johnson Whitmire's just before the war? A Yes sir, I saw her out on Red River in '65, and she is the same one.
Q And you haven't seen her since until a few days ago? A No sir, I haven't.
Q In January of this year was your attention drawn to the fact

about one Martha Albert --- about four months ago? A Not that I know of.
Q Do you remember this paper that I showed you a while ago?
A Yes sir.
Q Did you read that paper before you signed it? A Yes sir,
Q Four months ago you swore before Mr. Rogers, a Notary Public, that you had known this woman all her life time, and now you state that from the time you saw her down on Red River in '65 until a few days ago you didn't see her at all? A I couldn't see her all the time.
Q It is a fact that you had not seen her since '65 until a few days ago? A Yes sir, I hadn't.
Q Prior to that time you had signed this affidavit, hadn't you?
A Yes sir.

(Reference is made to an affidavit signed by the witness in the case of this applicant, signed on January 10, 1906, before H. L. Rogers, Notary Public, and which is a part of the petition for a rehearing, addressed to the Department of the Interior and to the Honorable Commissioner of Indian Affairs).

MR. NEAL:

I have one other witness, Martha Williams, who is the Martha that was sold by Johnson Whitmire to Dillingham. She lives at Marlton, and we sent a man down after her, and this morning I got a message stating that she is sick, and that a doctor's certificate has been procured. As soon as she is able to travel I would like to bring her up here and take her testimony. The testimony of this witness is important, because she is the Martha that belonged to Johnson Whitmire and who was sold out to Dillingham.

WITNESS EXCUSED.

Martha Albert recalled for additional cross examination.

MR. HASTINGS:

Q What is your name? A Martha Albert now.
Q What was your father's name? A Charley Bowland.
Q What was your mother's name? A Nancy, but she was called Nannie when she was young.
Q How old are you? A I think I am about 60 years old, but I don't know exactly. I am not educated, and can't tell my age exactly.
Q Were you married before the war? A No sir, I was just a little girl.
Q Were you married during the war? A About the last year of the war.
Q Where? A On Red River.
Q Who did you go south to Red River with? A With Cornelius Wright's daughters.
Q Who took them? A Cornelius Wright took them, and there was another lot went along. We all went together, but I was so small that I didn't pay much attention.
Q Did you know any of Cornelius Wright's folks? A Yes sir, I knowed Alf Wright, and aunt Jinnie, and aunt Darcus.
Q Did Cornelius Wright have any children? A Yes sir.
Q What were their names? A I can't tell you, for it has been a long time ago, and I can't remember their names.

Q You can't recall the name of any one he had when the war came up? A I can remember them but I can't remember their names.
Q You can't remember the names of any of them that went south with you? A No sir.
Q Where did Cornelius Wright live when the war came up, and about when you started south? A On the other side of Barren Fork
Q On which side of Barren Fork was that? A On the north side.
Q How far from Barren Fork? A I didn't go out there and measure it, Mr. Hastings. I was too young.
Q What was Cornelius Wright's wife's name? A Her name was Sarah, I think.
Q Was she living when the war came up? A It seems to me like s she was dead.
Q How long had she been dead when the war came up? A You must recollect that I was a child and don't remember lots of things. You must give me a chance the same as anybody else. You folks didn't give us niggers no education so we could know and remember things like that.
Q About how long before the war did Sarah Wright die? A I don't know.
Q Will you swear that she didn't go south with Cornelius Wright?
A I don'tknow.
Q You are sure her name was Sarah? A I said I thought it was. What did us niggers know abou that. All we could call them was Mistress, and most always that was all we knowed about their names.
Q What was Cornelius Wright's childrens names that went south?
A I don't know.
Q You didn't habe to call them Master and Mistress did you? A Sometimes we did, and then is has been so long ago that I have raised a family myself since then.
Q What was Johnson Whitmire's wife's name? A She was named Tempie.
Q Was she the wife that was living with him when the war came up?
A I think she was, but I wouldn't be positive.
Q You was their slave? A Yes sir, and he had plenty of slaves besides me.
Q How many children did Johnson Whitmire and his wife, Tempie, have? A I will tell you the truth, and I wouldn't swear a lit to get on this roll. I don't know their names -- none but one. I knowed Watt, and that is the only one.
Q You know him because you heard me call his name, and because he was a witness against you in this case. How old was Watt when the war came up? A He was a good sized boy, but I was the largest.
Q If you were a child with them and Johnson Whitmire had some more children, why don't you remember their names? A I just tell you about that. If you had been raised up a slave in the backwoods like us you would not know your playmates' names.
Q The truth of the business is, you weren't there? A Yes sir, I was right there.
Q Did he have a brother named George Whitmire? A Yes sir.
Q What children did George Whitmire have? A He didn't live right there.
Q How far did he live from Johnson Whitmire? A I don't know. I know he lived in the country somewhere.
Q About how far? A I don't know.
Q You never were at George Whitmire's? A I belonged to Johnson Whitmire.
Q You never were at George Whitmire's? A No sir.

Q You don't know whether he had any children or not? A I think he did.
Q You don't know any of Johnson's children but Watt, and you did not know him until he testified against you? A Yes sir, I knowed him before.
Q But you never knew any of the rest of them did you? A I don't know.
Q Where did Johnson Whitmire live when the war came up? A He lived up in Going Snake District.
Q Near what town? A Tahlequah.
Q About how far from Tahlequah? A I don't know.
Q Your best judgment? A I didn't have no judgment about it.
Q You weren't there, were you? A I was born and raised right there on the old Whitmire place.
Q How far is it from Tahlequah? A I don'tknow.
Q Wasit a s much as two miles? A I never have measured it.
Q Was it a mile and a half -- what is your best judgment? A It might have been a mile and half or five miles.
Q Is five miles your best judgment? A My best judgment is that I don't know.
Q Is five miles your best judgment? A I don't know how far it was.
Q On what side of Barren Fork did he live? A On the north side.
Q How far did he live from the creek? A I don't know that. He didn't live so powerful fur, though.
Q Was it five miles? A No, I don't think it was that far.
Q Right when the war come uphow far did Johnson Whitmire live from Barren Fork? A I guess his old house is sitting there right now, on the north side of Barren Fork.
Q How far from the creek? A I couldn't answer lessen I know.
Q I want to know whether it was a short distance, or how far?
A If I had been a young woman I might have been able to tell you.
Q How old were you? A I must have been about 4 or 5 years old.
Q And yet, you were married the last year of the war? A I was 13 or 14 years old when I married.
Q What became of your mother? A She died.
Q Where did she die? A Down in Sequoyah.
Q Did your father go south with you? A He didn't go with us but he come.
Q You remember seeing him around Johnson Wright's before you went?
A Yes sir, but his home was on Pea Vine.
Q What kind of a house did Johnson Whitmire live in? A I think it was a big log house.
Q Are you certain about that? A No sir, I won't be certain.
Q Did he live on thehill or in the valley? A On the side of the hill.
Q And you were four or five years old? A I suppose I was about that old.
Q You were born in '43 and left in '47? A I don't know. You ask me too tight questions. If I was sold I would say so.
Q How many slaves did Johnson Whitmire have? ~~He~~ I mean, when the war came up? A He had old aunt Temptie, Artie, Mose, Celia, Mary, Nancy and me.
Q Did Celia have any children? A No sir.
Q Did Tempie? A She had two.
Q Were they older or younger than you? A Older.
Q Did they have any about your age? A No sir.
Q Did Mary have any children? A Yes sir.
Q What were their names? A One was named Bass and one was named Tom.

Q You don't know how far from Barren Fork Johnson Whitmire lived, though? A No sir.
Q You didn't know any of his children but Watt? A I did know them, but I have forgot their names.
Q You didn't know any of Cornelius Wright's children's names?
A No sir.
Q You do not know the names of any of George Whitmire's children?
A No sir, we didn't belong to George.

COMMISSION:

Q You have some children, haven't you, that you applied for? A Yes sir.
Q Elijah and Ida are two of them? A Yes sir.
Q Who is the father of these children? A Colly Albert.
Q He was a stateman wasn't he? A Yes sir. Old man Bushyhead raised him, but he didn't belong to him.
Q How many times have you been married? A Just the one time.
Q What was your husband's name? A Colly Albert.
Q He doesn't claim any rights as a Cherokee Freedman? A No sir
Q You have a child called Henry? A Yes sir.
Q Has he got some children? A Yes sir.
Q What are their names? A Harry, Raymond, and Louie.
Q Who is themother of those children? A Florence.
Q She is a state woman? A Yes sir.
Q She doesn't claim any rights as a Cherokee freedman? A No sir.
Q You have a girl called Lillie White? A Yes sir.
Q She has some children? A Yes sir.
Q Who was the father of these children? A Henry White.
Q He is a state man? A Yes sir.
Q Have you a child called Nancy Balkam? A Yes sir.
Q Has she any children? A Yes sir.
Q Their father doesn't claim any rights as a Cherokee freedman?
A No sir.
Q Have you a daughter named Malinda? A Yes sir.
Q Has she any children? A Yes sir, six.
Q Does the father of those children claim any rights as a Cherokee freedman? A No sir.
Q Are they all living? A Malinda is d ad, but her children are all living.
Q What relation is Jennie Barnes to you? A She is my sister.
Q A full sister? A Yes sir.
Q Did you have the same father andmother? A Yes sir.
Q Is Robert Barnes jennie Barnes' son? A Yes sir.
Q The father of Robert was a state man? A Yes sir.
Q Jennie Barnes had a daughter called Lula Knalls? A Yes sir.
Q And she has two children? A Yes sir.
Q What are their names? A Sarah French and Fred E. Knalls.
Q Was the father of Sarah French a state man? A Yes sir.
Q What about the father of Fred? A He was a state man.
Q Who was the father of R-430? A He was a state man, too.
Q He is dead isn't he? A Yes sir.
Q John Barnes is a son of jennie Barnes, too? A Yes sir.
Q His father was a state man? A Yes sir.
Q The mother of Gussie and John is a state woman? A Yes sir.
Q Sarah Brown has got a child called Maggie Williams? A Yes sir.
Q What is is father's name? A Marcus Williams.
Q He is a state man? A Yes sir.
Q Jennie Barnes had a daughter named Maggie, and Maggie had a son named George L. Bell. Who was the father of this child? A George Smith, or Bell.
Q Is he a state man? A No sir.

Q He was denied as a Cherokee freedman? A Yes sir.

WITNESS EXCUSED.

Witnesses for the nation.

Watt Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Watt Whitmire.
Q What is your post office? A Westville.
Q What is your age? A 53.
Q Are you a Cherokee by blood? A Yes sir.
Q What was your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte.
Q Was your mother living when the war came up? A No sir.
Q How long had she died before the war? A I don't recollect. I was just an infant when she died. I think she died about ten years before the war.
Q Had your father remarried when the war came up? A Yes sir.
Q What was his wife's name then? A Tempie.
Q Did you have any brothers and sisters living when the war came up? A Yes sir, I had one full brother by the name of William, older than me, and then I had some half brothers, named George and Ellis, and a sister named Charlotte.
Q Do you know this applicant that goes by the name of Martha Albert? A If I ever saw her before I don't know it.
Q Did your father own some colored people when the war came up?
A Yes sir.
Q Did he own one called Nancy when the war came up? A No sir.
Q Did your father own this colored applicant, who claims that she is the daughter of Nancy, when the war came up? A There was no Nancy on the place.
Q Did your father own this applicant? A No sir, she wasn't on the place.
Q Were you living with your father when the war came up? A Yes sir.
Q How far were you living from Barren Fork? A Right at two miles.
Q On which side of the creek? A South side.
Q Did you ever live on the north side of Barren Fork? A No sir.
Q Do you know one, Andy Alberty, whose post office is Stilwell?
A Yes sir.
Q He has just testified upon the stand that your father owned a nigger slave by the name of Nancy and this applicant, who was the child of Nancy when the war came up. Was that true? A No sir, he never owned no woman by the name of Nancy.
Q How far did Andy Alberty live from your father when the war came up? A As near as I can guess it, it was 7 or 8 miles.
Q What kind of a house did your father live in? A A double log house.
Q You say your own mother was dead? A Yes sir.
Q Was your stepmother living when the war came up? A Yes sir.
Q What became of your father's slaves? A When father went south we left the women folks all at home. The men had all gone north before we left home. Me and my brother, George, were the last ones to leave the place, and we left all the women folks on the place, and after we left they all went north.

Q None that you owned went south? A Not one.
Q Where did you go during the war? A Down on Red River on the Choctaw side.
Q Did you know Cornelius Wright? A Yes sir.
Q Did you know his son, Cale? A Yes sir.
Q How far did they live from you? A Some five or six miles.
Q On what side of Barren Fork A On the southeast side from us.
Q Did you see them down on Red River during the war? A Yes sir.
Q Did they have some slaves down there?.. A Yes sir.
Q Did they have a woman by the name of Nancy? A If they did I don't know it.
Q Did you ever see this applicant down there? A No sir.
Q Did you ever see her anywhere before? A No sir, this is the first time I ever saw her.
Q How long were you all and Cornelius Wright's people together in the Choctaw nation? A I don't know. We moved away and left them there. We moved there in the early fall and left early the next spring, and we left Cornelius Wright's folks living there.
Q They were related to you? A Yes sir.
Q You know that Cornelius Wright didn't have any slave of your father's by the name of Nancy down there? A No sir.
Q Did you ever know the alleged father of this applicant who she said went by the name of Charley Bowland? A No sir.
Q Was he in your neighborhood before the war? A I never heard of him.
Q Did you see him down on Red River during the war? A No sir.

MR. NEAL:

Q You say you and your brother went off and left the women folks there? A Yes sir.
Q You mean the slaves? A Yes sir.
Q You also said that they all went north? A Yes sir.
Q Do you know where they went? A I don't know only what they told me. After the war they told me they went to Fort Scott. One of themen told me that.
Q You don't know, of your own personal knolwedge, where they went?
A No sir, I just have their word.
Q You say that one of the mentold you? A Yes sir, Dick and Moss both told me that the women folks were all in Fort Scott.
Q You said the men folks all went north? A Yes sir, they went north fist -- before we left.
Q All you know about where the women folks went is what Dick and Moss told you, and they left before you did? A Yes sir.
Q You say your father didn't own any slave by the name of Nancy?
A No sir.
Q Did he own one by the name of Nannie? A Yes sir, there was a little girl by the nameof Nannie.
Q How old do you say you are? A 53.
Q That would make you how old when the war broke out? A Between 9 and 10.
Q You were acquainted with all of your father's slaves, were you?
A Yes sir.
Q Knew all of the children? A Yes sir.
Q How many children did Rachal have? A 3 or 4--I don't know just exactly whether it was 3 or 4.
Q How many children did Sookie have? A There was Charlette, Lisa, Ibby, and Mary.
Q There was a slave there named Fronie? A Yes sir, but I have forgot which woman was her mother.

Q How many children did Fronie have? A One.
Q Of your knowledge, you don't know where your father's slaves went? A Not only what they told me. They told me they went north.
Q You never have seen any of the women folks since then? A Not since the war.
Q You don't know where they are now, do you? A Not for certain. I never have [redacted] been right to their houses.
Q You never have spoken to one of the negro women that belonged to your father, since the war? A No sir.
Q The only slaves of of your father's that you have seen are Mose and Dick? A Yes sir.
Q How many slaves did your father have when the war broke out?
A I would have to count them up.
Q About how many? A I guess there were 18 or 20, children and all.
Q You have named four children of Rachel's ---A As well as I recollect, I said there were that many.
Q Five of Sookie's? A Yes sir.
Q And one of Fronie's? A Yes sir.
Q How many more children were there? A There was one by the name of Charlotte that had one or two children I think.
Q Do you think that, being only 9 or 10 years old, you would recognize a woman 55 or 60 years old who was a girl at the outbreak of the war? A I guess not.
Q Then you don't know anything about Martha Albert-- anything about who she is, or anything about her? A No sir.
Q If she belonged to your father you don't know it? A No sir.

MR. HASTINGS:

Q You know your father didn't have a grown woman, with children, by the name of Nancy when the war came up? A No sir, he didn't.

COMMISSION:

Q You have testified in this case once before? A Yes sir.
Q Are you the Watt Whitmire that testified at Fort Gibson in 1901?
A Yes sir.
Q Do you know this man, Dillingham? A No sir, I have heard of him frequently.
Q Did he live in your neighborhood? A I think not? I have heard my father speak of him.
Q You do not know how near he lived to your home, do you? A No sir, I knew the place they say he lived on.
Q You knew this Andy Alberty that testified here awhile ago? A Yes sir.
Q Did you know him before the war? A No sir.
Q When was the first time you ever knew him? A Since the war I got acquainted with him.
Q You don't know whether he was in the habit of visiting your father's house or not? A No sir.
Q Your mother's name was Lottie? A Charlotte.
Q You belonged to the second marriage? A No, the first.

MR. NEAL:

Q How long before the war was it that your father married Temple?
A I don't recollect just when it was. I was a boy up and running around, I guess two or three or four years old. It was anyway three or four years before the war.
Q You were about 9 or 10 when the war broke out? A Yes sir.

MR. HASTINGS:

Q Was there any other Johnson Whitmire living around there before the war? A No sir.

COMMISSION:

Q Do you know what year it was that you went to Red River? A No sir, I don't.
Q What is your best judgment as to what year it was? A It would have to be a round about guess? A I guess it was the second year of the war.
Q Do you remember distinctly about going to the Choctaw Nation?
A Yes sir.
Q You remember the trip down there, and the people you met down there? A Yes sir.

WITNESS EXCUSED.

Cale, Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Cale Wright.
Q Where do you live? A Tahlequah.
Q How old are you? A I am 59.
Q What was your father's name? A Cornelius Wright.
Q Were you living with your father when the war came up? A Yes sir.
Q Where? A About 3 or 4 miles west of Dutch Mills, on the Cherokee side.
Q What District? A Going Snake.
Q How far from Barren Fork? A About two and a half miles, I guess.
Q Where did your father go during the war? A South.
Q Did you go with him? A I didn't exactly start with him, but I got with him at Fort Smith when he was on the way.
Q Did you continue on the trip with him? A Yes sir.
Q Did you continue on the trip with him? A Yes sir.
Q Where did you go to? A The first place we stopped at was Armstrong's Academy in the Choctaw Nation, then we moved from there down to 10 miles south of Doaksville, near Red River.
Q Do you know this applicant, Martha Albert? A No.
Q She has testified that she and her mother, Nancy went south with your father during the war, and that her mother, Nancy, belonged to Johnson Whitmire, as well as herself, at the beginning of the war? Is that true? Did a Nancy Whitmire, who had one or two children, go south with your father? A They were not with him when I came up with him.
Q Did they have a Nancy Whitmire anywhere on that trip? A No sir.
Q Were you ever about Johnson Whitmire's place before the war?
A Yes sir, I believe there was two sessions.
Q And you lived in his neighborhood? A Yes sir, within five miles.
Q Did Johnson Whitmire have some slaves? A Yes sir.
Q Did he have a slave by the name of Nancy who had some children when the war came up? A No sir. I never heard of that name while I was there going to school.
Q You live in the same neighborhood? A Yes sir.
Q You were related to Johnson Whitmire? A I suppose we were distantly related, but I don't know just how much.
Q You do not know the degree of relationship? A No sir.

Q Did you ever see this applicant down south after the war or during the war? A I am just looking at her. Let me talk to her some, and see.
Q Are you satisfied from the conversation that you have had with her, that she was with your father down south? A No, she could not have been.
Q Did you know this Andy Alberty? A Yes sir.
Q How far did he live from Johnson Whitmire before the war? A It must have been 8 miles, across the mountain.
Q You swear positively that your father did not have a woman by the name of Nancy, and her child, that belonged to Johnson Whitmire, down on Red River during the war? A No sir.

Applicant to witness--- Was Arthur with you? A No.
Q Was Rose? A Yes, there was a Rose -- Lucindy's daughter.
Q Was Jinnie with you? A Jinnie died in '61.

MR. HASTINGS:

Q You know that no Nancy Whitmire went south with your father?
A No sir.

MR. NEAL:

Q You said just now that you judge from your conversation with the applicant, that she could not have been with your father down there? A No sir, she couldn't.
Q The reason that you say she was not with your father is because she doesn't seem to know enough about the people? A That is it.
Q Upon that you base your judgment? A Yes sir.
Q There were a good many slaves that went with your father down there? A Yes sir, several.
Q Did any of the Whitmire niggers go with your father? A No. The Whitmires went out there themselves and we all went to ourselves, and at last we all got into the same neighborhood before we started back.
Q You didn't go out of the Territory at all? A No, we stopped on the north side of the river in the Choctaw nation.
Q You say that you boarded at Johnson Whitmire's and went to school, and you say he had no slave named Nancy-- name some of his slaves --- A You call them off.
Q I want you to call them off? A He had Hannah, Myra, Fronie, Rachel, Ibby, Mary, and there might have been some young ones, but these are the older ones.
Q Didn't he have one named Jane? A Not that I knew of.
Q Didn't he have one named Mattie? A No.
Q Didn't he have one named Nannie? A Well, I don't know, but if he did she must have been right small.
Q Didn't he have one named Sookie? A Yes, there was one named Sookie.
Q Do you know the names of any of the men? A Yes, there was Dick, Moses, Mike, Frank, and Mark.
Q What was Johnson Whitmire's wife's name when the war came up? A Her name was Temple.
Q Were you acquainted with his first wife? A No, she was dead long before I could remember her.
Q How old were you when you boarded there? A It was about in '60. I was a good big chap.
Q You remember the names of all of these slaves by having boarded there? A Yes sir.
Q How far did you live from there? A About 6 miles, I reckon. In our country we had what we called "miles" more than here, but it was about 6 miles around.

MR. HASTINGS:

Q. Did you mean in the year '50 or between '50 and '60? A. Yes sir, that is it-- between '50 and '60.
Q. About how long before the war? A. I couldn't tell that. The was broke out in '61, and it must have been three or four years before the war.
Q. Were you there frequently besides boarding there? A. Yes Sir.

MR. NEAL:

Q. You said when you were south of the Red River that the Whitmire folks got into the same neighborhood? A. Yes sir.
Q. And some of the slaves were there? A. Yes sir.
Q. Old man Johnson Whitmire didn't carry out any slaves? A. I think George had a slave or two.
Q. You say that none of Johnson Whitmire's slaves were there? A. No, they all went north.

COMMISSION:

Q. Have you ever seen this woman before, to your knowledge? A. No sir, I don't know anything about her.
Q. How far do you live from Melvin? A. I live up to Tahlequah, and I don't know just how far it is.
Q. Do you know any of these applicants?--- any of this woman's children? A. No sir.

WITNESS EXCUSED.

J. W. Alberty, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. J. W. Alberty.
Q. What is your post office? A. Westville.
Q. How old are you? A. Well sir, I will be 71 years old the 26th day of July.
Q. This is the case of Martha Albert, in which you have given testimony before? A. Yes sir.
Q. You knew Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. Six or seven miles.
Q. You testified about the sale of some slaves to a man by the name of Dillingham? A. Yes sir.
Q. About when did he sell them to Dillingham? A. It was either in '47 or '48.
Q. Do you know this applicant here? A. No sir.
Q. She has testified that her mother was named Nancy and that her father was named Charley Bowland. Did you know the Nancy, the alleged wife of Charley Bowland? A. Yes sir.
Q. Who did she belong to? A. Old man Dillingham moved to Texas and took this family with him.
Q. To whom did she previously belong? A. To Johnson Whitmire.
Q. And Dillingham acquired her from Johnson Whitmire in the year of 1847 or 1848? A. Yes sir.
Q. Are you certain that her name was Nancy? A. Yes sir.
Q. What became of Charley Bowland? A. He went with Dillingham.
Q. Do you know whether Nancy had some children? A. She had two or three.
Q. You don't know whether this applicant was one of them or not? A. No sir.

Q. Did Johnson Whitmire have a grown slave by the name of Nancy when the war came up? A. No sir, not that I know of.
Q. You were familiar with him? A. Yes sir.
Q. Are you prepared to say that Charley Bowland was not in that country when the war came up? A. Yes sir.
Q. Do you know Andy Alberty? A. Yes sir.
Q. Is he a relative of yours? A. Yes sir.
Q. Where did he live before the war? A. He lived right close to Oak Grove school house.
Q. How far from Johnson Whitmire's? A. Between 7 and 8 miles.
Q. Then Nancy, the wife of Charley Bowland, was taken south? A. Yes sir.
Q. What was the citizenship of Dillingham? A. He wasn't no citizen at all, he was just a white man.
Q. Well, he was a United States citizen? A. Yes sir.
Q. Where did he live in '49 or '50? A. Before he went to Texas he lived in Arkansas.

MR. NEAL:

Q. You lived closer to Dillingham than you did to Johnson Whitmire didn't you? A. Yes sir.
Q. You were better acquainted with Dillingham's slaves that you were with Johnson Whitmire's? A. Yes sir.
Q. You knew more about this woman after Dillingham bought her than you did when she belonged to Johnson Whitmire? A. Yes sir.

WITNESS EXCUSED.

Jeff Catcher (Tik-nee-sky), being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Jeff Catcher.
Q. What is your post office? A. Stilwell.
Q. How old are you? A. I was 68 the 15th day of last month.
Q. Are you a Cherokee citizen? A. Yes sir.
Q. You are also known as Jeff Tik-nee-sky? A. Yes sir, that is my Cherokee name.
Q. Where did you live before the war? A. In Going Snake District, on Pea Vine.
Q. Close to where you live now? A. About 300 yards west of where I live now.
Q. Did you know Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. It was about three quarters of a mile, I reckon, maybe a leetle over.
Q. Were you a soldier in the army? A. Yes sir.
Q. You were about grown when the war came up? A. Yes sir.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman slave by the name of Nancy, who had some children, when the war came up? A. No sir, I don't recollect one by that name.
Q. Were you frequently at his house? A. Pretty near all the time. Once a week, anyhow. I was there pretty much all the time.
Q. Do you know this applicant, who gives her name as Martha Albert? A. No sir.
Q. Did you ever see her before? A. No sir.
Q. Did you know a white man that lived across the line by the name of Dillingham before the war? A. No, I never saw him, but I

have heard him talked of a good deal.

Q. You were too small to remember him? A. Yes sir, but I have heard of him.

Q. You don't know whether he bought some slaves of Johnson Whitmire or not? A. I don't know. He didn't after I got big enough to recollect.

Q. Did Johnson Whitmire, when the war came up, have a woman by the name of Nancy? A. No sir.

Q. What army were you in? A. The Federal army.

Q. Do you know Andy Alberty? He just testified here awhile ago? A. Yes sir.

Q. How far did he live from Johnson Whitmire? A. Between 7 and 8 miles.

Q. Did you know a free colored man in that country by the name of Charley Bowland? A. I have heard of him, but I don't recollect him.

Q. He wasn't there just before the war? A. No sir.

MR. NEAL:

Q. You say that you don't remember a woman named Nancy that belonged to Johnson Whitmire? A. No sir.

Q. You don't mean to say that he didn't have one by that name, but that you just don't remember her? A. If he had one it must have been a small child, for I know all the old ones. I think I can name all the old ones.

Q. Name them? A. The old women that I knew was Myra, Ma, Sookie, Hannah, Rachel, Frenie, Mary, Charlotte, and the balance were small and I don't recollect their names.

MR. HASTINGS:

Q. Was Andy Alberty ever to see you lately to see about this case? A. Yes sir, last Sunday.

Q. What did he say to you? A. He asked me if I knew of Mr. Whitmire having a woman by the name of Nancy.

Q. What did he say about it? A. He didn't say that he knew anything about it. He just wanted to find somebody that knew them.

Q. Did he say that he knew one at that time by the name of Nancy? A. He didn't say whether he did or not. He just wanted to find somebody that did know her. I told him that I didn't think Johnson Whitmire owned any nigger by that name.

Q. That is the same Andy Alberty that you saw out there in the hall who has just testified here? A. Yes sir.

MR. NEAL:

Q. As soon as Mr. Alberty told you that he wanted to get witnesses who knew this woman who did you go and tell about it? A. I told him that there was an old woman up there, Susie Walkingstick, and that if anybody would know about it she would for she was older than I was. I said, for my part, I didn't know anything about it. Afterwards, I saw him and told him that what I knew was not in his favor, but would go against him, for I was there and knew all about his niggers.

Q. You sent him around to see Susie Walkingstick, and told him that if he owned one by that name it was before you could remember? A. Yes sir.

Q. And then you chased out to see if they wanted witnesses for the Nation. A. No sir.

COMMISSION:

Q. How big a place did Johnson Whitmire have? A. About 75 acres in cultivation.
Q. About how many slaves did he have at the beginning of the war? A. He must have had 15 or 20.
Q. Was that the only place he had in the Cherokee Nation? A. Yes sir.
Q. Did he have a plantation anywhere else? A. Nothing only a cattle ranch down about Webbers Falls. He and his brother George had a ranch together. They both owned slaves.
Q. He didn't have any female niggers down at the ranch? A. no sir.
Q. You are positive that these are the only two places he had. A. Yes sir.

WITNESS EXCUSED.

Charlotte Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charlotte Wright.
Q. What is your post office? A. Christie.
Q. How old are you? A. 58.
Q. What was your maiden name? A. Whitmire.
Q. Who was your father? A. George Whitmire.
Q. What relation was he to Johnson Whitmire? A. A brother.
Q. Where did you live before the war? A. I lived on Barren Fork. West of the Barren Fork station and east of Christie.
Q. How far from where you living now? A. About a mile and a half.
Q. You have lived there all your life? A. Except when I was south during the war.
Q. Did you go south? A. Yes sir, we were gone four years.
Q. Where did you go? A. To Red River -- near Denham only we were on the Choctaw side.
Q. Did you know Cornelius Wright before the war? A. Yes sir.
Q. Did you see him down on Red River? A. Yes sir.
Q. Do you know Gale Wright? A. Yes sir.
Q. You saw these people down south during the war? A. Yes sir, we got to be neighbors down there.
Q. Did Johnson Whitmire have some slaves before the war? A. Yes sir.
Q. Do you know this applicant here? A. I don't recognize her.
Q. Did Johnson Whitmire have a grown woman slave by the name of Nancy when the war came up? A. I don't remember her.
Q. Was there a free colored man in the neighborhood, by the name of Charley Rowland, when the war came up? A. I never heard of it.
Q. This applicant gives her mother's name as Nancy and her father's name as Charley Rowland? A. I never knew them.
Q. Do you state that Johnson Whitmire had any slave by the name of Nancy, who had some children, when the war came up? A. If he did I don't know it.
Q. He was your uncle? A. Yes sir.
Q. Were you frequently at his house? A. yes sir.
Q. How far did your father live from him? A. I guess it was 5 or 6 miles.
Q. You lived in the same neighborhood? A. Yes sir.
Q. And you were frequently at your uncle's place? A. Yes sir.
Q. Would you stay any length of time? A. As long as a week.
Q. You knew his family and slaves? A. Yes sir.

Q. They never had one by the name of Nancy that you know of? A. No sir.
Q. Did you see any slaves down south with Cornelius Wright, and among them one names Nancy who claimed to belong to your uncle Johnson before the war? A. No sir, none of his slaves went south that I know of. They all left him.
Q. You didn't see any down there that claimed to have belonged to him? A. No sir.
Q. You do not remember to have ever seen this applicant before? A. No sir.

MR. NEAL:

Q. You have not seen any of Johnson Whitmire's female slaves since the war, have you? A. No sir.
Q. You probably wouldn't remember a girl that was 4 or 5 years old? A. I think I would recognize her. I could be mistaken, but I think I would recognize her.
Q. How old were you when the war broke out? A. I was 14 years old when we had to leave home.
Q. You say that if Johnson Whitmire had a slave by the name of Nancy, you don't know anything about it? A. No sir.
Q. You don't know that he didn't have one by that name, but you just don't know about it? A. I never saw one by that name on the place, and I don't think he had one by that name. I don't recollect anything about it, and never heard anything about it.
Q. You don't know positively that he didn't have one by that name? A. No sir, he didn't have one by that name that I knew of. He didn't have one at home, and I don't think he had any away from home. I never heard of it if he did. But I knew there was no one on the place by that name.

WITNESS EXCUSED.

Charles Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charles Whitmire.
Q. What is your post office? A. Procter.
Q. How old are you? A. 56 I reckon.
Q. Are you younger than your sister, Mrs. Wright? A. Yes sir.
Q. She was your sister? A. Yes sir, she was always recognized as my sister.
Q. You are the son of George Whitmire? A. Yes sir.
Q. Johnson Whitmire was your uncle? A. Yes sir.
Q. Do you remember Johnson Whitmire before the war? A. Yes sir.
Q. About how old were you when the war came up? A. I couldn't tell you -- 12 or 14 I guess.
Q. Were you about Johnson Whitmire's frequently? A. Yes sir, I stayed there a right smart and went to school from his house.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman slave who had some children, by the name of Nancy, when the war came up? A. Not that I remember.
Q. Well, if he had had one that was old enough to be, and was the mother of some children would you have known it? A. Yes sir, I think I knowed all of the older ones.
Q. You didn't know one by the name of Nancy? A. No sir.
Q. Do you know this applicant here? A. No sir.
Q. Did you ever see her before? A. Not that I remember.
Q. Did you ever know a free colored person by the name of Charley

Rowland in that country? A. No sir.
Q. Then, of course, you never knew his wife, Nancy? A. No sir.
Q. Did you say that you stayed at Johnson Whitmire's and went to school? A. Yes sir.
Q. Do you know Johnson Whitmire's wife and family? A. Yes sir.
Q. Is Watt one of the children? A. Yes sir.
Q. Where did you go during the war? A. I went south to Red River.
Q. Did you know Cornelius Wright? A. Yes sir.
Q. Did you see him down there? A. Yes sir.
Q. Was he Cale Wright's father? A. Yes sir.
Q. Did he carry any of Johnson Whitmire's slaves down south with him? A. No sir.
Q. It has been sworn that he took some of Johnson Whitmire's slaves and among them was this woman, Nancy, and this applicant. Is that true? A. If he did, he didn't have them when we got to where they were.
Q. You were not old enough to know a white man by the name of Dillingham, were you? A. No sir.

MR. NEAL:

Q. How old did you say you are? A. 56 if I am not mistaken.
Q. You are older than your sister? A. No sir.
Q. Who else was boarding down there and going to school? A. Nobody but me and his boy went to school. Sometimes Aunt Tempie had two sisters who stayed there and went to school.
Q. When were you there? A. I don't know.
Q. Were you there off and on for four or five years before the war? A. I don't know?
Q. Did you stay there for more than one year? A. I went from them for two or three sessions.
Q. You never happened to be there when anybody else was boarding there? A. I was there when Aunt Tempie's sisters were there. I don't remember anybody else.
Q. How many years before the war was it? A. I am not able to tell you what year it was. I stayed at home some, and then I didn't get to go to school but very little.
Q. Your cousin, Cale, boarded down there and went to school didn't he? A. I couldn't say whether he did or not. If he went to school from there when I did I don't remember it.
Q. You said that you were of the opinion that Johnson Whitmire had no slave by the name of Nancy who was old enough to have children at that time? A. No sir.
Q. If he did you don't remember it? A. No sir, I don't remember ever hearing that name called.
Q. You never knew her if she was there? A. No sir, I don't remember any of the folks on the place calling one by that name.

MR. HASTINGS:

Q. If there had been one there by that name would you have known it? A. Yes sir.

MR. NEAL:

Q. You would remember it all these years, would you? A. I don't know, but I think I would. I remember the names of all of the older ones.

CROSS EXAMINATION:

Q. Where was this school? A. On Barren Fork, on Pea Vine.

Q. How far from Johnson Whitmire's? A. About a mile and a half.
Q. Who had this school? A. An old missionary lady taught the school. I don't remember her name.
Q. Was it a kind of a convent school? A. Itwas kept up by the Cherokee Nation. It was a public school.
Q. How far away was the nearest school to it? A. I couldn't say positively just how far away. I expect it was 8 miles. I wouldn't be positive, but I expect it was that far.
Q. Was Johnson Whitmire in the habit of taking boarders to attend school? A. Yes sir, and so did my father.
Q. You were convenient to the school, and the people from the neighboring vicinity sent their children over there to board and go to school? A. Yes sir.

MR. NEAL:

Q. You say your father kept boarders? A. Yes sir.
Q. How did it happen that you didn't board at home? A. My uncle had a boy, and had nobody to go to school with him, so I was sent over to go to school with this boy.
Q. How near did your father live to the school? A. About four miles, but he built a house about three quarters of a mile from the schoolhouse where he kept the teacher and boarders.

WITNESS EXCUSED.

(Mr. Neal -- I would like that the case be held open until I can introduce one other witness, the Martha Williams who was actually sold to Dillingham, and if I can get her, I will bring Susie Walkingstick.

By consent and agreement, this case is continued to May 11, 1905, at 1:30 o'clock, P.M.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 27th. day of April, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

(Signed) Eula Jeanes Branson.

Subscribed and sworn to before me this 29th day of April, 1905.

(Signed) Myron White,
Notary Public.

Mabelle Seymour, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she made the above and foregoing copy, and that the same is a true and complete copy of the original transcript.

Subscribed and sworn to before me this 16th day of May, 1906.

Notary Public.

FILED
COMMISSION TO FIVE TRIBES

Cherokee Freedman-R-418 to
431, inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, May 11, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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Neal & London, attorneys for the applicants.

Bell, Hastings & Davenport, attorneys for the Cherokee Nation.

C O M M I S S I O N.

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On this, the 11th. day of May, this cause coming on to be heard, the applicants appear neither in person nor by attorney.

The Cherokee Nation, represented by W. W. Hastings, introduces the following testimony:

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Aaron Whitmire, being duly sworn, testified as follows on behalf of the Cherokee Nation:

MR. HASTINGS:

Q. Your name is Aaron Whitmire? A. Yes sir.
Q. You are a freedman citizen of the Cherokee Nation? A. Yes sir.
Q. How old are you? A. About 69.
Q. To whom did you belong when the war came up? A. George Whitmire.
Q. What relation was George to Johnson Whitmire? A. They were brothers.
Q. How far apart did they live? A. About four miles when the war come up.
Q. In what District? A. Going Snake.
Q. Did they use to live together? A. Yes sir, till they married.
Q. Were you familiar with Johnson Whitmire's slaves? A. Yes sir
Q. Did you ever know a slave that he had down there by the name of Nancy, who had Charley Bowland, a free colored man, for her husband? A. Yes sir.
Q. What became of Nancy? A. She was sold to a man by the name of Dillingham.
Q. What was Dillianham's citizenship? A. A citizen of the United States.

Q. Where did he live? A. Right on the line of -- or close to the line of Arkansas.
Q. Did this Nancy have any children? A. I think she had one, is all I recollect.
Q. What was that child's name? A. Martha.
Q. Now, I refer to the Nancy who had a husband by the name of Charley Bowland, a free colored person? A. Yes sir, and so do I
Q. About how long before the war was it that she was sold to Dillingham? A. As near as I can recollect, it must have been 8 or 10 years or more.
Q. Did Dillingham continue to live over there in Arkansas till the war came up? A. No sir.
Q. What became of him? A. He went to Texas before the war come up.
Q Aaron, it has been alleged here that Johnson Whitmire had another Martha whose mother was Dicy, and that Dicy and that Martha were sold instead of this Martha and Nancy? Did he have another woman by the name of Dicy? A. Yes sir.
Q. Did he have her when the war came up? A. No sir, she was dead.
Q. Did he sell her to Dillingham? A. No sir.
Q. When did she die? A. Before the war, and before Nancy was sold
Q. Did Dicy have any children? A. One.
Q. What was its name? A. Cinthy.
Q. What became of Cinthy? A. She was sold to a man by the name of Russell, who lived in Arkansas.
Q. About how long before the war was she sold? A. 6 or 8 years.
Q. Did Johnson Whitmire have any other Dicy? A. No sir, never did
Q. Did you ever hear of his selling a Dicy to Dillingham? A. No sir.
Q. Did you ever hear of his selling a little girl by the name of Martha, besides this one? A. No sir, this was the only Martha on the place.
Q. Did he have a Martha when the war came up? A. No sir.
Q. Did you ever see the applicant who gives her name as Martha Albert, who is the wife of Collie Albert? A. I haven't seen her since she was sold.
Q. Did Charley Bowland go to Texas? A. Yes sir.
Q. Was he in the Going Snake country when the war came up? A. No sir, I never did see him after he went to Texas.
Q. What became of Johnson Whitmire's slaves? Did any of them go to Texas? A. No sir.
Q. What became of his women slaves? A. They went north.
Q. Who took them north? A. They went off with the soldiers.
Q. How long did you remain up there at the old Whitmire place? A. Till '64.
Q. Then you went to Kansas? A. Yes sir.
Q Had all of Johnson Whitmire's slaves gone off north with the soldiers? A. All but two, and they were with me. They were two very old women -- Amy and Myra.
Q. Had Cornelius Wright gone south? A. Yes sir.
Q. He took his slaves with him? A. Yes sir.
Q. Did Johnson Whitmire have any other Nancy or Nannie other than the one he sold to Dillingham? A. Yes sir, he had a little girl called Nannie.
Q. Who was her mother? A. Sookey.
Q. What was Sookey's name? A. Smith.
Q. What was her husband's name? A. Mose Smith. He is dead.
Q. Where does she live? A. Up here on Big Creek in Cooweescoowee District.

COMMISSION:

Q. How many slaves did Johnson Whitmire have at the beginning of th the war? A. He had some 20 or 25.
Q. Can you give their names? A. I could name the old ones.
Q. Give me the names? A. The first old woman was Amy, Myra, Hannah, Seokey, Kizzy, Mike, Dick, Martin, Mose, Saphronie, Rachel Charlotte, Liza, Aby, Nannie, Frank. That is about all I can recollect.
Q. These are all the older ones? A. Yes sir.
Q. The younger ones you do not remember? A. I cannot recollect them.
Q. How many of these slaves do you know of that are living now, of the 15 or 16 you have just named? A. I don't know of but two that are living?
Q. Where are they? A. Up on Big Creek.
Q. What are their names? A. Nannie Smith and Frank Whitmire.
Q. Where does Frank live? A. On Big Creek.
Q. How old a man is he? A: I don't know just how old a man he is -- right at 60 I guess.
Q. Do you know Martha Williams? A. No sir.
Q. Are you positive now that at the breaking out of the war, Johnson Whitmire did not have a slave by the name of Martha? A Yes sir.
Q. Do you know whether he had a child slave by that name? A. No sir, there was not one by the name of Martha.
Q. You know that of your own knowledge? A. Yes sir.
Q. You mentioned in your testimony about a Nancy who had a daughter by the name of Martha, and that they were sold to Dillingham. Have you ever seen them since that time? A. I never have.
Q. Do you know who this applicant is -- have you seen her? A. I don't know that I would know Martha if I saw her.
Q. How far do you live from Fort Smith? A. I live away up near the Kansas line.
Q. Did you say you knew Charley Bowland? A. Well.
Q. Was he a free colored person? A. Yes sir.
Q. And you know that he married one of Johnson Whitmire's slaves named Nancy? A. Yes sir.
Q. You cannot be mistaken about that? A. No sir.

WITNESS EXCUSED.

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COMMISSION:

After the introduction of the above testimony by the Cherokee Nation, the attorneys for the applicant appeared, by their stenographer, Miss Sorenson, and filed with the Commission a motion for continuance.

MR. HASTINGS:

The attorneys for the Cherokee Nation object to the motion for continuance, filed in this case, for a number of reasons, to-wit:

FIRST: -- This case has been continued a number of times upon motion and at the request of the applicants;

SECOND: -- The motion for continuance is not sworn to;

THIRD: -- The motion for continuance does not set up what is expected to be proven by the said Martha Williams, but only states that she is an important witness, and does not set up what is

expected to be proven by her, so that the Commission can pass upon the materiality and admissability of the testimony.

FOURTH:-- The certificate of the attending physician is not sworn to.

Commission:

The motion for continuance will be taken under advisement, and the attorneys will be notified by mail.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 11th. day of May, 1905, and that the above and foregoing is a full, and complete transcript of her stenigraphic notes taken in said cause on said date.

Eula Jeanes Branson

Subscribed and sworn to before me this the 17th. day of May, 1905.

Notary Public.

A. F. Mc.
D. C. L.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Martha Albert et al., as Cherokee freedmen, consolidating the applications of:

| | | | |
|---|---|---|---|
| Martha Albert et al. | Cherokee Freedmen | (D 42) | R 418 |
| Robert Barnes | " " | (D 99) | R 419 |
| Lula Knalls et al., | " " | (D 100) | R 420 |
| Nancy Borkum et al. | " " | (D 101) | R 425 |
| Henry Albert et al. | " " | (D 102) | R 421 |
| John Barnes et al., | " " | (D 103) | R 422 |
| Jerry Albert | " " | (D 104) | R 423 |
| Lillie White et al., | " " | (D 105) | R 424 |
| Malinda McLain et al. | " " | (D 114) | R 426 |
| Frank Gardner | " " | (D 146) | R 430 |
| Joshua Barnes | " " | (D 150) | R 427 |
| Sarah Brown et al. | " " | (D 151) | R 428 |
| Minnie Barnes | " " | (D 152) | R 429 |
| Maggie Bell et al., | " " | (D 182) | R 431 |

D E C I S I O N .

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Martha Albert for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Borkum for herself and minor children, Annie and Walter Borkum; by Henry Albert for himself and minor

children, Harry and Raymond Albert, thereafter, on October 31, 1902, there was filed with the Commission an affidavit showing the birth, on June 4, 1902, of Lewey Albert, son of the applicant, Henry Albert; by John Barnes for himself and minor child, Gussie A. Barnes, thereafter, on August 20, 1902, there was filed with the Commission an affidavit showing the birth, on June 15, 1902, of John A. Barnes, son of the applicant, John Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie and Nancy White, thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on March 8, 1902, of Amos White, son of the applicant, Lille White; by Charles McLain for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain, thereafter, on September 1, 1901, there was filed with the Commission an affidavit showing the birth, on May 17, 1901, of Mattie McLain, daughter of the applicant, Malinda McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; and by George C. Bell for his wife, Maggie Bell, thereafter, on November 7, 1901, there was filed with the Commission an affidavit showing the birth, on September 18, 1901, of George L. Bell, son of the applicant, Maggie Bell.

THE RECORDS FURTHER SHOW: That on January 11, 1904, the Commission rendered its decision herein, denying said applicants, except Mattie McLain, whose rights to enrollment, through an oversight, were not considered, the right to enrollment as Cherokee freedman, and that on June 21, 1904 (Departmental letter I.T.D. 4732-04), said decision was duly affirmed by the Department; that, thereafter, on March 25, 1905 (Departmental letter I.T.D. 1332-05), on motion of the applicants, this case was reopened by the Department, and remanded for further testimony and readjudication; and that, thereafter, on April 13, and 27, and May 11, and June 22, 1905, further proceedings in the matter of said applications were had at Muskogee, Indian Territory.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Martha Albert, claims the right to enrollment as a Cherokee freedman by virtue of her compliance with the treaty stipulations of 1866, and that all the other applicants herein claim the same right as descendants of the said Martha Albert and one Jennie Barnes, deceased, who, it is alleged, complied with said treaty stipulations of 1866.

The following points are fully established by the evidence, no attempt having been made to disprove them:

(1) That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were full sisters, and were born prior to the commencement of the rebellion.

(2) That all the other applicants herein were born since the commencement of the rebellion, are lineal descendants of the applicant, Martha Albert, and the said Jennie Barnes, deceased, and possess no rights to enrollment as Cherokee freedmen other than as such descendants.

( The records of this office fail to show that Ruth Barnes, mother of the applicants, Gussie A. and John A. Barnes, has ever made application for enrollment as a Cherokee freedman. Her mother, Millie White, and full sister, Viola White, and full brothers, Jim H. and Harry White, were originally listed for enrollment as Cherokee freedmen on Memorandum cards Nos. 10, 13, and 14, and were later transferred to Freedmen Rejected cards, Nos. 317, 320 and 321. On April 24, 1905, their applications for enrollment as Cherokee freedmen were denied by the Commission, and record forwarded to the Department.

George C. Bell, father of the minor applicant, George L. Bell, was denied enrollment as a Cherokee freedman, by the Commission, on April 20, 1904, and on May 26, 1904, -Departmental letter I.T.D. 4050-04,- the Commission's decision was approved by the Department).

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the commencement of the rebellion, but, rather, that several years prior to the commencement of said rebellion, they, together with their mother "Nancy", were sold to one Dillingham, a citizen of the United States, were removed from the Cherokee Nation, and it is further shown that they did not return to said Nation on or prior to February 11, 1867. Excepting the Wallace and Kern-Clifton Rolls, none of the applicants herein can be identified on any roll of the Cherokee Nation in the possession of this office.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 ( 30 Stat., 495), Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A.

-2-

Harmon, John A. Harmon, Jerry Albert, Lillie White, Eddie Thrasher, Fanny White, Anna White, Shilonah McKinley, Samuel McIntosh, Willie McIntosh, Charlotteanna McKinley, Beatrice McKinley, Forrest McKinley, Josephine McKinley, Hattie McKinley, Frank Garfield, Joshua Harris, Sarah Brown, Maggie Williams, Minnie Harris, Maggie Hall, and George L. Hall, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

_____
Commissioner.

Dated at Muskogee, Indian Territory,

this _____

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Martha Albert, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

| | | |
|---|---|---|
| Martha Albert, et al., | Cherokee Freedmen | D- 42 |
| Robert Barnes, | Cherokee Freedmen | D- 99 |
| Lula Knalls, et al., | Cherokee Freedmen | D-100 |
| Nancy Berkum, et al., | Cherokee Freedmen | D-101 |
| Henry Albert, et al., | Cherokee Freedmen | D-102 |
| John Barnes, et al., | Cherokee Freedmen | D-103 |
| Jerry Albert, | Cherokee Freedmen | D-104 |
| Lillie White, et al., | Cherokee Freedmen | D-105 |
| Malinda McLain, et al., | Cherokee Freedmen | D-114 |
| Frank Gardner, | Cherokee Freedmen | D-146 |
| Joshua Barnes, | Cherokee Freedmen | D-150 |
| Sarah Brown, et al., | Cherokee Freedmen | D-151 |
| Minnie Barnes, | Cherokee Freedmen | D-152 |
| Maggie Bell, et al., | Cherokee Freedmen | D-182 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Martha Albert, for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls, for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Berkum, for herself and minor children, Annie and Walter Berkum; by Henry Albert, for himself and minor children, Harry and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes for himself and minor child, Gussie A. Barnes; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert, for himself; by Lillie White, for herself and minor children, Mattie and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Amos White; by Charles McLain, for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jeanette McLain; by Frank Gardner, for himself; by Joshua Barnes, for himself; by Sarah Brown, for herself and minor child, Maggie Williams; by Minnie Barnes, for herself; by George C. Bell, for his wife, Maggie Bell; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell.

The evidence shows that the applicant, Martha Albert, and her sister, Jennie Barnes, now deceased, were not slaves of Cherokee citizens or free colored persons residing in the Cherokee Nation at the commencement of the war of the rebellion. All the other applicants herein have been born since the commencement of the rebellion and are descendants of and claim right to enrollment through either the said Martha Albert or Jennie Barnes.

None of the names of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Lila McLain, Christiana McLain, Charles McLain , Turner McLain, Jennette McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee Freedmen, should be denied under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory,
this JAN 11 1904

F. D. 1011

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAY 15 1901

ACTING CHAIRMAN

# NOTICE!

In the matter of the application of Jerry albert for enrollment as a Cherokee Freedman.

Case No. D 104

To Jerry albert

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on the following dates, to-wit: May 24 & 25 and .....A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 13 day of May 1901.

Bell, Hastings & Davenport

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } s. s.

I do solemnly swear that I delivered a true copy of the within notice to .....

on the .....day of ..... A. D. 1901.

Subscribed and sworn to before me this .....day of ..... 1901.

..... Notary Public.

COMMISSIONERS.
HENRY L. DAWES.
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, Indian Territory, May 15th, 1901.

Received of the Commission to the Five Civilized Tribes one copy of the original testimony in the matter of the application of Jerry Albert for enrollment as a Freedman of the Cherokee Nation, one copy of the original testimony in the case of Robert Barnes, one copy of the original and one copy of the supplementary testimony in the case of Martha Albert et al ; said testimony having been made a part of the record in the case of Jerry Albert.

A S McRea

Attorney for Applicant.

Cherokee F. #D104.

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mr. Jerry Albert,
Vian, I. T.
CherokeeF-D-104
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

DEPARTMENT OF THE INT[illegible]
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
APR 1[illegible] 1901

[illegible] ACTING CHAIRMAN.

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date APR 18 1907

Post Office Vian

District Sec

1. Name Jerry Albert Age 28

Owner's name Citizenship

Year K C Page 157 No. 1938 District Sec

Parents:

Father Cully Albert Citizenship Col

Mother Martha Albert Citizenship Col

2. Name of wife Age

Owners' name Citizenship

Year Page No. District

Parents:

Father Citizenship

Mother Citizenship

Names of Children:

3. Year Page No. Dist.
4. Year Page No. Dist.
5. Year Page No. Dist.
6. Year Page No. Dist.
7. Year Page No. Dist.
8. Year Page No. Dist.
9. Year Page No. Dist.
10. Year Page No. Dist.
11. Year Page No. Dist.
12. Year Page No. Dist.

Application made by Mo Ld Stenographer Van Weeks Clerk

Cherokee F. D-104

Muskogee, Indian Territory, January 11,1904.

Jerry Albert,

Vian, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself as a Cherokee Freedman. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles

Commissioner in Charge.

Enc. D-38

Register.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

A. S. McBee,
Attorney for Martha Albert et al.,
Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Ehalls, Sarah French, Fred L. Ehalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewis Albert, John Barnes, Cornelia A. Barnes, John A Barnes, Jerry Albert, Lillie White, Mattie White, Henry White, Annet White, Malinda McClain, Samuel McClain, Ella McClain, Christiana McClain, Charles McClain, Turner McClain, Jeanette McClain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Rhoda Barnes, Maggie Bell and George L. Bell as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior

for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Mns. D-30
Register.

COPY.-

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Khalls, Sarah French, Fred E. Khalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Tommie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Anna White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jeanette McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

The decision, with the records of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Enc. D-31.

Cherokee Freedmen.
D-42 et al.

Muskogee, Indian Territory, January 11, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Martha Albert et al., including the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knolls, Sarah Trouth, Fred E. Knolls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Oswald A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Anna White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jeannette McLain, Frank Gardner, Nathan Barnes, Sarah Brown, Maggie Williams, Florida Barnes, Maggie Ball and George L. Ball, as Cherokee freedmen.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Through the Commissioner of Indian Affairs.

Rec. D-42.

Cherokee Freedmen
D 104

Muskogee, Indian Territory, February 13, 1904.

Jerry Albert,

Vian, Indian Territory.

Dear Sir:

The Commission is in receipt, by reference from the Secretary of the Interior, of your letter of January 17th, stating that in your opinion the Commission has done an injustice in its decision in the Cherokee Freedmen application of Martha Albert, et al., and asking for a chance to prove the rights of the parties concerned.

In reply you are advised that the Commission's records show that on January 11th the record in the case of Martha Albert, et al., together with a copy of the Commission's decision of that date rejecting the applicants, was transmitted to the Secretary of the Interior for approval. The action of the Secretary will be made known to you as soon as the Commission is informed of the same. The Commission is now without authority to reopen this case for further testimony.

Respectfully,

Commissioner in Charge.

Refer in reply to the following:

Land: 3385-1904.

Copy.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 9, 1904.

In re

Application for enrollment

as Cherokee Freedman, viz:

| | | |
|---|---|---|
| Martha Albert, et al | F.D. 42 | |
| Robert Barnes, | F.D. 99, | |
| Lula Knolls, et al | F.D. 100 | |
| Nancy Berrum, et al. | F.D. 101, | |
| Henry Albert et al, | F.D. 102, | |
| John Bowens, et al. | F.D. 103, | |
| Jerry Albert, | F.D. 104, | Consolidated. |
| Lillie White, et al. | F.D. 106 | |
| Malinda Mckinn, et al, | F.D. 114, | |
| Frank Gardner, | F.D. 146 | |
| Joshua Barnes, | F.D. 150, | |
| Sarah Brown, et al. | F.D. 151, | |
| Minnie Barnes, | F.D. 152, | |
| Maggie Bell, et al. | F.D. 162. | |

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith the record of proceedings had before the Commission to the Five Civilized Tribes in the above consolidated cases of Martha Albert et al., affecting the rights of thirty-six applicants for enrollment as Cherokee Freedmen, the Commission by its decision, dated January 11, 1904, re-

nied the application of all the applicants in the above named cases, to be enrolled as Cherokee freedmen.

The record shows that applications for enrollment as Cherokee freedmen were made to said Commission by Martha Albert for herself and minor children, [redacted] and [redacted] Albert; by Robert Barnes for himself; by Lydia Knalls for herself andminor children, Sarah French and Fred E. Knalls; by Nancy Berkum for herself and minor children, Annie Berkum and Walter Berkum; by Henry Albert for himself and minor children, Henry Albert and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record, was filed with the Commission, showing the birth of Lowey Albert; by John Barnes for himself and minor child, Bessie A. Barnes, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie White and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Amos White; by Charles McLain forhis wife, Malinda McLain and his minor children, Samuel, Ella, Christian, Charles, Tumner and Jennetta McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown forherself and minor child, Maggie Williams; by Minnie Barnes for herself; by George C. Ball for his wife Maggie

Bell, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell. Claimants base their contention for a right to be enrolled as Cherokee freedmen upon the claim made that the principal applicant Martha Albert and her sister, Jennie Barnes, now deceased, from whom the other applicants claim descent, were at the commencement of the War of the Rebellion the slaves of one Johnson Whitmire, a Cherokee citizen, that during the war these alleged slaves, Martha Albert and Jennie Barnes went South to Red river in the Choctaw Nation where they remained until the fall of 1866 when they claim to have returned with one Ellis Harlin to the Cherokee Nation and settled with him on the Cale Starr place near Cherokee Junction. The evidence adduced shows that Johnson Whitmire and George Whitmire, brothers and Cherokee citizens, owned before the war several slaves, designated as the "Whitmire darkies". The attempt to identify Martha Albert and Jennie Barnes as one of the "Whitmire darkies" at the commencement of the war has signally failed.

Watt Whitmire, son of Johnson Whitmire, who claims to have known the names of all the slaves of his father, testified that he had no recollection of any two female girl slaves named Martha and Jennie and can not even recall the fact that his father ever owned a slave named Nancy Whitmire, the mother of said girls. Harry Still whose master was George Whitmire, brother to Johnson Whitmire who only lived four miles distant and

knew all the colored people raised by Johnson Whitmire; testified positively that Johnson Whitmire did not own a slave named Nancy Whitmire nor a slave named Martha Whitmire. J. W. Siberry who lived in the Going Snake District, Cherokee Nation before the war and who well knew Johnson Whitmire from whom he lived a distance of ten or twelve miles, testified that the Whitmire boys, George Whitmire and Johnson Whitmire, at the time they divided up their property in 1849 sold a slave named Nancy Whitmire with her whole family to a man named Dillingham who moved them with his family right across the line into Arkansas at a town called Dutch Town or Salem where he remained until he moved to Texas in 1858-9; that he knew the darkies "better after Dillingham got them than I did before" and that Dillingham only lived five miles from where witness then lived. It is evident that the principal applicant Martha Albert and her sister Jennie Barnett were living in Arkansas instead of the Cherokee Nation at the close of the war as Jennie Barnett's husband testified that he married her in December, 1868, at Fort Smith, Arkansas, where it appears Jennie Barnett was hired out and where her husband worked much of his time after marriage. Martha Albert claims to have married her husband in the Cherokee Nation during the war while her husband denies having married her until after his return to the Cherokee Nation. The death of Nancy Whitmire the mother of the principal applicant Martha Albert is shown to have occurred in 1866 but the place of her burial is not definitely shown. The belief that the principal applicant, Martha Albert was living in Arkansas and not in the Cherokee Nation as claimed by her, is further strengthened by the testimony of Mrs. Nell Ford

was Ruth Burlin and Mrs. Rose Finley was Rose Burlin, daughters of Willis Burlin with whom it is claimed Nancy Whitmire and her two daughters, Burlin and Fannie returned from the Cherokee Nation to the Cherokee Nation in November 1838. Mrs. Hunt and Mrs. Finley testify positively to the fact that their father Willis Burlin did not return to the Cherokee Nation until February or March 1839; that no colored people returned in his company, that the first time they ever saw Burlin Albert was in the "Summer of 1839" when their father "went over in Arkansas sometimes towards Van Buren and hired the men to cross out west", that the family went to Albert and his wife's home was Burlin, that neither the answer his wife ever claimed to have run a farm the slaves of Johnson Whitmire them allotment here before the war, nor did either claim to be there for freedmen that they ever heard of; until the roll was taken at Tahlon in 1896 and positively are identified as former hired help. John Wilson testified that Burlin Albert's husband told him "he found him at the Arkansas place." If that be true, and Burlin Albert's wife that on her return she first settled on the John Ghost place on which Willis Burlin lived it is evident that she did not accompany the Cherokee Nation until the "Summer of 1839." In view of all the facts and circumstances of this case, this office is of the opinion that the principal applicant Burlin Albert did not enter Indian Country as claimed, or that the other applicants claim to be permanently were not the slaves of Cherokee citizens at the commencement of the war of the Rebellion nor were they held elsewhere in the Choctaw Nation at the

commencement of the rebellion and even had they been, which is denied, it is shown that they went out of the Cherokee Nation and did not return thereto prior to February 11, 1867, in contravention of the treaty of July 19, 1866, which provides:

"All freedmen who have been liberated by voluntary act of "their former owners or by law, as well as all free colored "persons who were in the country at the commencement of the "rebellion and are now residents therein, or who may return "within six months, and their descendents, shall have all the "rights of native Cherokees."

As the burden of proof lies upon claimants to establish their rights to recognition as Cherokee freedmen under the provisions of the treaty of July 19, 1866, and as they have failed to bring themselves within its purview, it follows that all of the [illegible] applications for enrollment as Cherokee freedmen must be denied.

We come now to the discussion of another point involved. It appears of record that the names of Martha Ibert and her minor children Elijah and Ida are found on the Keyes-Clifton roll while the names of several of the descendants are found upon the village roll. None of the applicants names are to be found upon the authenticated roll of 1880 nor upon the census roll of 1896.

Attorney for applicants contends that as the name of Martha Ibert and her minor children, Elijah and Ida appear upon the Keyes-Clifton roll, that such fact is conclusive of their rights as Cherokee freedmen and pleads [illegible] to any action by the Commission. Such contention cannot be maintained.

Congress by Act of June 28, 1898, Sec.21, directed the Commission to the Five Civilized Tribes as follows:

"It shall make a roll of Cherokee freedmen in strict "compliance with the decree of the Court of Claims rendered the "third day of February eighteen hundred and ninety six."

The Court in its decree of February 3, 1896, (see P.4), instructed said Commission as follows:

"The said commissioners in ascertaining the identity of "the freedmen entitled to share under the decree, shall accept "what is known as the authenticated Cherokee roll, the same "now being on file in the office of the Secretary of the Interior, "having been furnished to him and purporting to have been taken "by the Cherokee Nation in 1880 for the purpose of showing the "number of freedmen then entitled to citizenship in the said "nation under the terms of the treaty between the United States "and the Cherokee Nation hereinbefore referred to, and their "descendants, and no evidence shall be accepted by said Commission "tending to disprove the citizenship of any of the persons "whose names appear upon said roll". and supplementary thereto, Sec. 21, of the Act of June 28, 1898, states expressly the proposition that the roll of Cherokee citizens of 1880 (not including freedmen) is "the only roll intended to be authorized by this and preceding acts of Congress", thus in effect declaring that the rolls of the citizens were not to prevail unless the name of the applicant appears upon the authenticated roll of 1880

which is not here claimed. Neither the fact of claimant's name appearing upon the Kern-Griffin roll nor the fact of the names of her descendants appearing upon the Wallace roll, constituted any bar to further action by the Commission, as the Commission was expressly empowered by Sec.21 of the Act of June 28,1898, to "investigate the right of all other persons whose names are found "on any other rolls and omit all such as may have been placed "thereon by fraud or without authority of law, enrolling only such "as may have lawful right thereto." Thus the Commission was left free to act, as upon a new inquiry, to determine what freedmen, omitted from the roll of 1880 but "whose names are found on any other rolls" are entitled to the benefit of Article IX of the treaty of 1866. For the foregoing reasons, I concur in the opinion of the Commission that the applications for enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knolls, Sarah French, Fred M. Knolls, Nancy Durham, Annie Durham, Walter Durham, Henry Albert, Harry Albert, Raymond Albert, Lenny Albert, John Barnes, Cassie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Hattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christina McLain, Charles McLain, Turner McLain, Jeannette McLain, Frank Gardner, Joshua Barnes, Maggie Bell and George L. Bell, as Shawnee freedmen,

should be denied under the provisions of Sec. 22 of the Act of Congress approved June 28, 1906 (34 Stats., 498), and it is recommended that the decision of the Commission therein, dated January 11, 1904, be affirmed.

Very respectfully,

A. C. Tanner,

Acting Commissioner.

EM.

E

D.C. 22,675-1904. W.C.J.

I.T.D. 4720-1904. J.P.

L R S THE

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 21, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 11, 1904, you transmitted the record in the consolidated case embracing the applications of Martha Albert et al. (T.D.-42), for enrollment as Cherokee freedmen, [redacted] your decision of the same date, rejecting the applications.

Reporting June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department affirms your decision, for the reasons stated therein.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

1 inclosure.

Cherokee Freedmen

D-104.

Muskogee, Indian Territory, June 28, 1904.

Jerry Albert,

Vian, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself as a Cherokee freedman, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-42 et al.

Muskogee, Indian Territory, June 28, 1904.

A. H. McRae,

Attorney for Martha Albert, et al.,

Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for enrollment of Martha, Elijah, Ida, Albert; Robert Barnes; Lula Knalls, Sarah French; Fred M. Knalls; Henry, Harry, Raymond, Lewey, Albert; John, Cassie A, John A., Barnes; Jerry Albert; Lillie, Mattie, Nancy, Amos, White; Malinda, Samuel, Ella, Charles, Turner, Jeanette, Christiana, McLain; Frank Gardner; Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George L., Ball; Nancy, Annie, Walter, Berkum; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Operating Assistant
D-40 #1 etc.

Muskogee, Indian Territory, June 24, 1904.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commissioner's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martin, Elijah and Ida Alberty, Robert Downey, Lula Hanks, Susan Jackson, and Fred D. Keeling Downey, Annie and Walter Downey Young, Henry, Raymond and Irene Alberty Fish, Bessie A., and Fred A. Downey, Percy Alberty Little, Nettie, Henry, and Rose Haley Hitchcock, Sarah, Ella, Charles, Henry, Jeanette, Mortimer, Sidney Wood, Gaylord, Frances Downey Lewis Jones, Maggie Whitlock Hanks Downey Hughes, George L. Hall was affirmed by the Secretary of the Interior on June 24, 1904.

Respectfully,

Superintendent in Charge.

W. C. F.
FEK.

DEPARTMENT OF THE INTERIOR,

D. C. 16475-1905.
I. T. D. 1332-1905. WASHINGTON. March 28, 1905.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department has considered a motion filed by attorneys Neal and London, of Fort Smith, Arkansas, dated December 10, 1904, to reopen the Cherokee enrollment case of Martha Albert, et al.

January 11, 1904, you decided that the applicants in said case were not entitled to enrollment, and on June 21, 1904, your decision was approved by the Department.

The attorneys desire the case reopened in order that newly discovered evidence may be introduced to show that previous to the breaking out of the war Johnson Whitmire owned two slaves by the name of Martha; that prior to the breaking out of the war one of said slaves was sold to a man named Billingham who lived in Arkansas; that she married a man named Williams; that the other Martha, known as 'Little Martha', who is one of the applicants in the case of Martha Albert, et al, married a man named Albert who lived in the Cherokee Nation. It is claimed by said attorneys that the evidence introduced by the Cherokee

Nation at the original hearing does not apply to the applicant herein.

It appears from the motion and the affidavits submitted that the case should be reopened. The motion is hereby granted. You will so notify the applicants and their attorneys and the attorney for the Cherokee Nation, and allow a reasonable time for the introduction of additional testimony, after which you will readjudicate the case.

The motion, the record and other papers in the case are inclosed.

Respectfully,

(Signed) E. A. Hitchcock

Secretary.

6 inclosures.

COPY.

Cherokee Freedmen

R-423,

Muskogee, Indian Territory, April 8, 1905.

Jerry Albert,

Vian, Indian Territory.

Dear Sir:

In the matter of the application for your enrollment as a Cherokee freedman, you are advised that the Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1332-1905), remanding this case for rehearing and readjudication.

You are, therefore, hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as you may desire in the matter of your said application. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

SIGNED. T. B. Needles.
Commissioner in Charge.

Imsl. 8-84.
Register.

COPY.

Cherokee Freedmen

Smith, et al.

Muskogee, Indian Territory, April 8, 1903.

Neal & London,

Attorneys for Martha Albert, et al.,

Fort Smith, Arkansas.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 25, 1903 (I.T.D. 1310-1903), remanding this case for rehearing and readjudication.

You applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 30, 1903, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Inclo. D-C.
Registered.

COPY.

Cherokee Freedmen

Enrl., et al.

Muskogee, Indian Territory, April 8, 1904.

Reid, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that this Commission is in receipt of departmental letter of March 26, 1904 (I.T.D. 1155-1904), remanding this case for re-hearing and readjudication.

The applicants here, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 28, 1904, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED). T. B. Needles.

Commissioner in Charge.

Encl. 2-24

Cherokee Freedman
R 423

COPY.

Muskogee, Indian Territory, June 15, 1906.

Jerry Albert,
Vian, Indian Territory.

Dear Sir:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting, among others, application for your enrollment as a Cherokee freedman, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion for review of your case filed September 7, 1905, is denied.

Respectfully,

Tams Bixby.

Commissioner.

MMP

Cherokee Freedmen
R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Blue & Bulger,
Attorneys for Martha Albert,
Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that the motion filed by you September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED).

Tams Bixby
Commissioner.

Encl. 2-17

Cherokee Freedmen
R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Neal & London,
Atterneys for Martha Albert,
Ft. Smith, Arkansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED.

Tams Bixby.

Commissioner.

Encl.P-15
MCP

Cherokee Freedman R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Bell, Hastings & Davenport,
Atterneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED).

Tams Bixby.

Commissioner.

Incl.P-16
MMP

Cherokee Freedmen
N 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1908

Neal and London,
Attorneys for Martha Albert et al.,
Fort Smith, Arkansas.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1908, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert, et al., C.F.R., 418, Robert Barnes, C.F.R. 419, Lula Wanlis et al., C.F.R. 420, Nancy Berkum, et al., C.F.R. 425, Henry Albert et al., C.F.R. 422, John Barnes et al., C.F.R. 423, Jerry Albert, C.F.R. 424, Lillie White et al., C.F.R. 424, Malinda McLain et al., C.F.R. 426, Frank Gardner, C.F.R. 426, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Ball et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Neal and London--2.

The decision, with the record of proceeding s had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Jas. Tamie Bixby.
Commissioner

Encl. B-38

Cherokee Freedmen

R 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1905

Bell, Hastings and Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al., C.F.R. 418, Robert Barnes, C.F.R. 419, Lula Knails et al., C.F.R. 420, Nancy Berkum et al., C.F.R. 420, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White et al., C.F.R. 424, Malinda McLain et al., C.F.R. 425, Frank Gardner, C.F.R. 430, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Bell, Hastings & Davenport,-2

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED) Tams Bixby.

Encl. B-36

Commissioner

COPY.

Cherokee Freedmen 2 415 et al.

Muskogee, Indian Territory, July 24, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment as Cherokee Freedmen of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred H. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Leway Albert, John Barnes, Cussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Nila McLain Christiana McLain, Charles McLain, Turner McLain, Jennette McLain, Hattie McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, including the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1906, rejecting said applications.

On January 11, 1904, the Commission to the Five Civilized Tribes rendered its decision denying said applicants,

excepting Mattie McLain, whose rights to enrollment were not at that time considered, and on June 21, 1904 (I.T.D. 4732-1904), said decision was affirmed by the Department. On March 25, 1905 (I.T.D. 1332-1905), this case was re-opened by the Department, and remanded for further hearing and readjudication.

Respectfully,

SIGNED: Tams Bixby
Commissioner

Through the
Commissioner of Indian Affairs.

Incl. B-22

Cherokee Freedman
R- 425

COPY.

Muskogee, Indian Territory, July 24, 1905

Jerry Albert,

Vian, Indian Territory,

Dear Sir:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, denying your application for the enrollment of yourself as a Cherokee freedman. There has heretofore been furnished your attorneys, Neal and London, Fort Smith, Arkansas, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED. Tams Bixby.

Commissioner

Inel. R-29

DEPARTMENT OF THE INTERIOR,

LAND:
59345-1905.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

August 12,1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated July 24, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Martha Albert for herself and her minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Khalls for herself and her minor children, Sarah French and Fred H. Khalls; by Nancy Berkum for herself and her minor children, Annie and Walter Berkum; by Henry Albert for himself and his minor children, Harry, Raymond and Lowry Albert; by John Barnes for himself and minor children, Jessie A. and John A. Barnes; by Perry Albert for himself; by Lillie White for herself and her minor children, Mattie, Nancy, and Amos White; by Charles McClain for his wife, Malinda McClain, and his minor children, Samuel, Mina, Christiana, Charles, Turner, Jennetta and Mattie McClain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself, and by George D. Bell for his wife, Maggie Bell, and his minor child, George L. Bell.

July 24, 1905, the Commission decided adversely to all the applicants.

The record shows that on January 11, 1904, the Commission rendered a decision denying these applicants, except Mattie McClain inadvertently omitted, and that on June 21, 1904, the decision was affirmed by the Department; that thereafter, on March 25, 1905 (I.T.D. 1332-1905) the Department reopened and remanded the case for further testimony and readjudication.

The record further shows that the applicant, Martha Albert and Jennie Barnes, deceased, were full sisters, and were born prior to the beginning of the war of the rebellion; that all the other applicants were born since the beginning of the war, are lineal descendants of the applicant, Martha Albert and Jennie Barnes, deceased, and possess no rights to enrollment other than as such descendants.

It is further shown that the applicant, Martha Albert and Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the beginning of the war of the rebellion, and that they did not return to the Cherokee Nation on or before February 11, 1867.

Excepting the Wallace and Kern-Clifton, none of the applicants is identified on any roll of the Cherokee Nation.

In view of the record the approval of the Commission's decision adverse to all of the applicants is recommended.

Very respectfully,
C. F. Larrabee,
Acting Commissioner.

M.M.M.
W.

-COPY- G.R.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

D.C. 22958.
I.T.D. 4732-1904.
1532-1905.
8789- "
10288- "
L.R.S.

June 2, 1906.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

July 24, 1905, you transmitted the remanded record with your readjudication in the matter of the consolidated applications for the enrollment of Martha Albert et al. as Cherokee freedmen, including your decision of same date, adverse to all the applicants.

August 12, 1905, the Acting Commissioner to Indian Affairs reporting thereon, recommended that your decision dated July 24, 1905, adverse to all the applicants named in his said letter, be approved. A copy of his letter, including the names of applicants affected by this decision, is inclosed.

The Department concurs in the recommendation made and your decision dated July 24, 1905, denying the application for the enrollment of Martha Albert and others named in Indian Office letter of August 12, 1905, is hereby affirmed.

A motion for review of said decision filed with the Department on September 7, 1905, by Messrs. Blue & Bulger and

Holcomb, Green & Wilson, attorneys for saving portion thereto, is hereby denied.

Respectfully,

Jesse H. Wilson,

Assistant Secretary.

1 Enclosure.

Cher. Fr. R-424

Cher. Fr. R-424

See Cher. Fr. R-418 To R-423 both inc.
R-425 To R-431 both inc.

To be filed in case of Nellie White, Cherokee Freedman, D 108:

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 10, 1901.

In the matter of the application of Martha Albert for the enrollment of herself and two children as Cherokee Freedmen; being sworn and examined by Commissioner Needles, she testified as follows:

Q What is your name? A Martha Albert.
Q How old are you? A About 54 or 5 years old.
Q What is your post-office address? A Melvin.
Q What district do you live in? A I live in Tahlequah District now, but I have been living in Sequoyah.
Q Do you apply to be enrolled as a Cherokee Freedman? A Yes sir.
Q Did you ever apply to be enrolled as a Freedman of any other tribe or nation? A No sir.
Q Have you been recognized by the Cherokee authorities as a Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A I have got two children.
Q What are the names of your children? A Elijah Albert, 19 years old; Ida Albert, 10 years old.
Q Are you married? A Yes sir.
Q What is your husband's name? A Holly Albert.
Q Is he a citizen? A Well, he has been raised by them.
Q Is he living? A Yes sir.
Q Where is he? A He is down town.
Q Were you a slave? A Yes sir.
Q What was your owner's name? A Johnson Whitmire.
Q Where were you at the beginning of the war between the Confederacy and the United States? A Going snake.
Q Were you taken out of the nation during the war? A Far as Red River.
Q This side or the other side of Red River? A This side.
Q When did you come back? A In '66.
Q You have been living down here ever since '66? A Yes sir.
Q What was your name before you were married? A I went by my owner's name, Martha Whitmire; I always goes by the name of Mat now.
Q Your name though is Martha? A Yes sir.
Q Have you ever lived in Cooweescoowee District? A No sir.
Q What is the reason your name aint on the roll of 1880? A I don't know; you know how ignorant people was, didn't know how to go at such business.
Q You say you were a slave of Johnson Whitmire? A Yes sir.
Q And that you came back to the Cherokee Nation in '66? A Yes sir
Q You sure it was '66? A Yes sir.
Q You think it wasn't '76? A No sir, '66.
Q You wasn't here in '65? A No sir.

Examined by Cherokee Representative, James Davenport:

Q Who did you come back to the Cherokee Nation with when you came back? A With Ellis Harlin.
Q Where did you go first when you came back? A I stopped right down on the Cale Starr place where the Cherokee Junction is now.
Q Stopped on the Arkansas side didn't you? A No sir, I didn't.
Q How long did you live in Ft. Smith? A Never lived in Ft. Smith any.
Q How long did you stay there? A I staid there two years, and then went to Lee's Creek.
Q Who did you live with there? A Cherokee family there, named Allison, and Mrs Franklin and all of them.
Q Where was Hickory Starr living at that time? A In Flint.
Q You didn't go up to Flint? A No sir.
Q Well, did you go up to Goinganake District? A No sir.
Q You just went to Sequoyah District, and remained there? A Yes sir.

Martha Albert et al 2

Examined by Commissioner Needles:

Q Have you got anybody here that knows you and knows you were here in '66? A Yes sir, Mandy Benton and John Melton.

JOHN MELTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? John Melton.
Q How old are you? A 64.
Q What is your post-office address? A Benge.
Q Are you a Cherokee Freedman? A Yes sir.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q You know Mattie Alberty? A Yes sir.
Q Was she a slave during the war or before the war? A I don't know.
Q When did you first know her? A About '67, early in '67; I saw her husband in '66 sometime, and had a talk with him; he said he found her at the Harlin place; I often heard talk of them being down there, but I never see them for a few months after .
Q When did you first see her? A Early in '67.
Q Early as January? A No sir.
Q Sometime in the spring? A Yes sir, along in the spring.

Examined by Cherokee Representative, James Davenport:

Q You don't remember what time in '67 you saw her? A No sir, not exactly.
Q You don't know where they were during the war? A No sir.

MANDY BENTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A Mandy Benton.
Q How old are you? Mandy? A About 70.
Q What is your post-office? A Benge.
Q You are a Cherokee Freedman are you? A Yes sir.
Q You know Mattie Albert? A I have been knowing her ever since the surrender.
Q You know where she was at the close of the war between the Confederacy and the United States? A No sir, I don't think I do.
Q Where did you first get acquainted with her? A On the Harlin place.
Q What year was that? A '66.
Q Was she there in '66? A Yes sir.
Q You know whether she had been a slave or not? A Yes sir, she was a slave.
Q You know who her owner was? A Whitmire.

Examined by Cherokee Representative, James Davenport:

Q What makes you remember that it was in '66 when you first got acquainted with her? A Well, just by paying attention to others talking I reckon, and knowing it was that time.
Q How long after the surrender was it you got acquainted with her? A Well, really I don't know.
Q Was it two years or three years? A It might have been a year and maybe not so long; I don't remember.
Q Where was she living when you got acquainted with her? A At the Harlin place.
Q Where is the Harlin place, I don't know Mandy? A It is in Sequoyah.
Q With whom was she living at that time? A With her husband and her children.
Q How many children had she? A I don't know how many children she had.

Q How far were you living from where she was living at that time?
A I guess it's about very near two miles.
Q You remember any of the Cherokee families living in that locality where she was living? A No.
Q You don't remember anything about it except it was in '66 you got acquainted with her? A Emma Harlin was living there then I think, If I mistake not.
Q Was Cale Starr living there? A I don't know- I remember--
Q You know Cale Starr? A Yes sir. I would like to get it straight; I tell you I have had so much trouble since that time I don't remember.
Q You don't know whether it was '66 or '76? A It was '66.

Examined by Cherokee Representative, W. WHastings:

Q It was before the treaty was it aunty that you got acquainted with her? AI guess it was.
Q Now, aunty, you don't know anything about years do you?
A I forget them.
Q You didn't know anything about years then did you? A Oh I guess I was here; I know a little some thing about it.
Q What year is this? A Now I disremember

Examined by Commissioner Needles:

Q You are pretty positive though that you saw this woman in '66? A I sure is.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not identified thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

Kerns-Clifton Pay roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
page 159 #3934 Mattie Albert, Sequoyah District;
page 159 # 3936 Elijah Albert, Sequoyah District;
page 159 #3937 Ida Albert, Sequoyah District.

Q Have these children always lived in the Cherokee Nation?
A Born and raised here.

Com'r Needles: The name of Mattie Albert and her children Elijah and Ida are found upon the Kerns-Clifton roll; their names do not appear upon the authenticated roll of 1880 nor the census roll of 1896; they are duly identified; now comes the Cherokee Nation, and protests against their enrollment, consequently, final judgment will be suspended as to the enrollment of said Mattie and her children and their names will be placed upon a doubt ful card.

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M.D.Green, being first duly sworn, statesthat as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this April 26,1901.

A Meekmuter

Commissioner.

To be filed in case of Nellie White D 105.

Department of the Interior.
Commission to the Five Civilized Tribes.
Ft. Gibson, I. T., April 18, 1901.

In the matter of the application of Martha Albert for enrollment as a Cherokee Freedman; she being sworn and examined by Commissioner Breckinridge, testified as follows:
Supplemental testimony D - 42.

Q Give me your full name. A Martha Albert.
Q How old are you? A I don't exactly know; I hold myself for about 57 years old.
Q What is your postoffice? A Melvin.
Q In what district do you live? A I live in Tahlequah District.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they all under 21 years of age? A No sir, they are all married but two.
Q Then you want to enroll those two? A Yes sir.
Q Have you a husband? A Yes sir.
Q Do you want to apply for his enrollment also? A No sir.
Q How long have you lived in the Cherokee Nation? A Been living here- I was born and raised here.
Q Lived here all your life? A Yes sir.
Q Have you applied before? A Yes sir, I didn't put my children on- I wasn't satisfied the way I went in for.
Q So you want to apply again? A Yes sir.
Q Why didn't you apply for your children when you applied before for yourself? A The witnesses couldn't stay.
Q Youhadidn't have your evidence in good shape? A No sir.
Q I have here your enrollment card and it appears that you did apply for two children, one Elijah and one, Ida? A Yes sir.
Q Are those the names of your children? A Yes sir.
Q What you want to give now is same additional testimony? A Yes sir.
Q What witnesses do you want to introduce now? A Henry Brown and Andrew Crossland.

Henry Brown, being sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give me your full name. A Henry Brown.
Q How old are you? A I am suppose to be about 44 years old.
Q What is your postoffice? A Vian.
Q In what district do you live? A Illinois.
Q How long have you lived in the Cherokee Nation? A I lived here all my life, only the time of the war.
Q You were out during the war, were you? A Yes sir.
Q Where did you go? A Chickasaw Nation.
Q You lived in the Cherokee Nation before the war? A Yes sir.
Q Well you were quite achild during the war? A I was about 12 or 13 years old during the time of the war; maybe 16; I don't know my age exactly.
Q What time did you come back to the Cherokee Nation, the time during the war? A They said it was in the fall of '65.
Q You came from the Chickasaw Nation? A Choctaw rather.
Q Then you never were out of the Indian Territory during the war? A No sir
Q Do you know an applicant here, Martha Albert? A She used to go by the name of Whitmire.
Q Is she known as Albert now? A Yes sir, by her husband's name.
Q Did she belong to a man named Whitmire before the war? A That's what they claim they belonged to Whitmire.
Q Were you a slave before the war? A Yes sir.
Q Who did you belong to? A Jo hn Brown.
Q What was Whitmire's full name, do you remember? A I don't know his full name.
Q Johnson Whitmire? A I heard that name, yessir; I heard him

called by that name.
Q Well, now, in those days did you live near Whitmire's place? A No sir, I lived at that time in Canadian District.
Q How far from Whitmire's place? A That's - I don't know how many miles. They claimed before the war something like forty miles; I don't know.
Q You came back to the Cherokee Nation when? A In the fall of '65.
Q When did you first see Martha Albert, as she is calld now, after you come back? A It was in '66 as near as I can remember; I saw her at old Jack Campbell's church house.
Q You can't becertain what year it was? A No sir, but I think it was in '66.
Q Have you known her pretty well ever since that time? A I have been seeing her off and on; I lived in Illinois and they used to live in Sequoyah.
Q Has she been living in the Cherokee Nation ever since you saw her then? A That is where I have been seeing her.
Q About how often would you see her, once a year or once every five or ten years? A I couldn't say how often; it wasn't often.
Q But you have seen her some since? A Yes sir, some since I come back after the war.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q Did you ever see this woman before the war? A No sir, never seen her before the war.
Q You never knew her then? A No sir.
Q The first time you ever saw her was after the war? A Yes sir.
Q And you never heard her personal name? A No sir.
Q You don't know that this woman was among them, the Whitmires? A No sir, I don't know.
Q I mean among them after the war when you saw her? A I only knew that they were Whitmire's darkies.
Q Did yuu know her personally? A No sir.
Q Did you know her after the war? A Yes sir, I saw her at this church.
Q The first time you saw the Whitmires darkies, you don't remember this woman personally except seeing her in the crowd? A I saw her with the Whitmire darkies.
Q Were they at the church house there at that time? A Yes sir.
Q Colored church? A Yes sir.
Q Do you remember that this woman herself, individually, was among them? A No, only that they said they were Whitmires.
Q You don't remember this woman personally except the Whitmires generally that were there? A They said they was the Whitmire darkies.
Q Did you see this particular individual colored woman at that time in '66? A As near as I said it was '66, that was the day I saw her at the Church as a Whitmire.
Q Did you see this particular woman? A Yes sir.
Q Do you think you saw her in '66? A As near as I can come at it.
Q You are not positive? A I am satisfied that it was '66.
Q What makes you fix that date? A Because I think it must have been her that time. It was the time I moved on Canadian. I was living there.
Q You were living in Canadian then? A Yes sir.
Q What were you doing down there? A I was in the Court at Fort Smith.
Q Who was preaching there? A I didn't go there; I just happened to be around there and Harry Foreman.
Q You don't know who preached? A No sir.
Q You didn't know this woman before? A No sir.
Q Why was it that this woman among a whole crowd of darkies was pointed out to you and why do you remember? A Because I heard it was the Whitmire darkies.
Q There was a number of them? A She was a particular one, he said was a Whitmire darkey.

Q What makes you remember that? A Because he said so.
Q Was she married then? A I don't know whether she was or not.
Q You don't remember of seeing her husband then? A No sir, I don't.
Q Where was that church? A Jack Town, this side of the river.
Q How far from the Payne place? A Six or seven miles this way from the river.
Q By Cherokee Junction? A Yes sir.
Q You don't know who she come back with? A No sir.
Q You don't know how long she's been back? A No sir.
Q What time of the year was it you saw her? A As near as I can say it was '66.
Q Spring, summer or fall? A Along in August of '66.

Q You were a stranger down there in that neighborhood? A No, not exactly I knowed some of the people down there.
Q How far did you live from there? A 45 or 6 miles.
Q Had you ever lived in that neighborhood? A I used to stay there a while after the war by Dr. Campbell'place.
Q Did you visit or live there? A When I come there, I came from Fort Smith and stopped at Campbell's.
Q How long did you stay there? A Several months.
Q Were you acquainted with many of the Whitmire darkies as you call them? A No more than just heard them as Whitmires when I was at the church.
Q And there were a lot of them there and they said they were Whitmire people? A Yes sir.
Q There seemed to be a lot of them? A This woman said she was a Whitmire and Charley Whitmire; they called them the Whitmire Darkies.
Q How long after that was it before you seen this woman again? A I couldn't say how long it was afterwards; it was some times afterwards.
Q Some years? A No years.
Q When were you down there again? A Several times after that.
Q You have been down there several times since that time you were at the church and the present day? A Yes sir, several times.
Q Well, about how long after being at the church before you went there again? A It must have been; I couldn't say, I stopped by Jacktown and would be on this side of the river. I can't say.
Q Were there a number of these Whitmire colored people down there? A They were acknowledged to be Whitmire pagans. They claim to be several of them; the ones I speak of is the one I saw that Sunday.
Q Were there quite a number of them? A They claim there was a good number of them.
Q You saw a good many who were claimed to be Whitmire people? A Yes sir, Whitmire Darkies.
Q What impressed this woman on your mind? A Harry Foreman pointed her out to me as a Whitmire.
Q You weren't acquainted with her? A No sir, only saw her that Sunday.
Q He pointed her out and others as belonging to the Whitmire crowd? A Yes sir.
Q Do you think that made enough impression on your mind passing there to remember her during all this time, you living forty miles away? A I saw her since then; that was't the only time I saw her.
Q You can't say for certain what year it was you were down there? A No sir, as near as I can remember, I claim it must have been '66.
Q And this is as far as you can go? A Yes sir, in being honest.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q I believe you stated that you attended Court atnFort Smith?
A Yes sir.
Q What trial? A Brother Breen.

Q Was he tried at Fort Smith that year? A Yes sir.

Commissioner-
Q That is the year you claim you saw the woman at this church?
A Yes sir.
Q Remember we are talking about the year you saw the Whitmire people? A I think it was in '66.
Q I am not asking you about that, we are trying to locate what business you had in the Court at Fort Smith in the year that you were at the church - what business took you to Fort Smith that particular year? A I couldn't say what year.
Q I never asked you about the year, I asked you about the business?
A As a witness.
Q In what case? A Green Lowry.

Examination by W. W. Hastings-
Q What Judge tried that case? A Judge Parker.
Q At Fort Smith? A Yes sir.

---

The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. V. Rothrock

Subscribed and sworn to before me this 27th day of April, 1901.

Commissioner.

FILED

APR 29 1901

ACTING CHAIRMAN

To be filed in case of Nellie White, Cherokee Freedmen D 105:

SUPPLEMENTAL: D 42.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Martha Albert et al for enrollment as Cherokee Freedmen;
Albert Johnson, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Albert Johnson.
Q How old are you? A I am 43.
Q What is your post-office? A Benge.
Q In what district do you live? A Sequoyah.
Q You want to give some testimony in the case ofMartha Albert and her children? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life, with the exception of going out into the Choctaw Nation during the war.
Q At what time did you come back to the Cherokee Nation?A '65.
Q And have you lived here ever since? A Yes sir; I have been right in the Territory ever since.
Q Do you know Martha Albert? A Well, yes sir, I do to some extent
Q How far does she live from you? A She lived right by us.
Q At one time? A Yes sir.
Q When was that? A Oh that has been I reckon about 24 or 5 years ago since she lived right by us, I guess; I wont say that for certain.
Q What was her name in that day? A Well she went by ~~the~~ Mattie Albert.
Q Do you know what her name was before it was Albert? A No sir, I couldn't say rjust what her name was,because I didn't know.
Q Where did she live before that time, 24 or 5 years ago, when you and she lived close together? A I am going to tell you just like I know; I aint going to tell nothing more than that; they said she lived up on Lee's Creek; I don't know that.
Q You have no knowledge of your own? A No sir, not as to whereabouts she was living at all.
Q So of your own ~~knowledge~~, except for hearsay, you don't know anything more than 24 or 5 years ago, is that so? A Yes sir.
Q Your first personal acquaintance with her was 24 or 25 years ago, as near as you can place it now? A Yes sir.
Q How old were you when you first knew her? A I guess I must have been about 17 or 18 years old; I guess I was, I don't know exactly.
Q You were most a young man? A Yes sir.

Examined by Cherokee Representativ , W.W.Hastings:

Q How far, Albert, did you live from Lee's Creek? A I lived 10 miles from Lee's Creek.
Q Yet you never saw her before that time? A No sir.

ANDY CROSSLAND, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Andy Crossland.
Q How old areyou?A About 74.
Q What is your post-office? A McKee.
Q In what district do you live? A Illinois District.
Q You want to give testimony in the case of Martha Albert and children?A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been here all the time, born here.
Q Were you in the Cherokee Nation during the Civil War? A Yes sir.
Q All the time during the war? A Yes sir, I was a soldier.
Q When did you begin soldiering? A I can't tell you; I was a soldier.

Martha Albert et al 2 supplemental.

Q What command were you in? A Cherokee.
Q In the Union Army? A Home Guard.
Q Were you Home Guardon the Union side or the Confederate side
A Confederate side.
Q Well, then, you quit soldiering of course when the war closed?
A Yes sir.
Q Did you surrender? A Yes sir.
Q Where did you surrender? A Right here at Ft. Gibson.
Q When did you first know Martha Albert? A After the war.
Q Where did you live before the war? A Down in Sequoyah District.
Q Were you a slave in those days? A Yes sir.
Q To whom did you belong? Did you belong to a man named Crossland?
A Yes, his wife.
Q What was her husband's name? A John.
Q You were paroled right here at Ft. Gibson? A Yes sir.
Q Where did John Crossland and his wife live? A In Sequoyah District.
Q Near what town? A Close to Redland.
Q Who did Martha Albert belong to in old times; she was a slave in old times was she? A I couldn't tell you.
Q You don't know about that? A No sir.
Q You don't know, then, of course, where she lived back before the war? A He used to live there in Flint.
Q Who are you talking about? A Martha.
Q You said he, you mean Martha Albert? AYes sir.
Q You say she must have livedin Flint, but you don't know?
A No sir.
Q When did you first see her? A Close to Ft.Smith on Cale Starr' place; had a place close to Stonewall, and I was going down towards Van Buren and I staid all night with her.
Q How did you happen to see her? A I staid all night with her.
Q Staid all night there? A Yes sir.
Q She was living on the plantation?A Yes sir, on Cale Starr's place.
Q She was a married woman then? A Yes sir.
Q You stopped at their house? A Yes sir.
Q What were you going down to Van Buren for? A Taking some cattle.
Q You had gone to work? A Yes sir.
Q How long had you been living up here before you started that trip? A I had been living all the time.
Q But after you were paroled and the war was over, you went to work? A Yes,swell I stopped down at Sand Town after peace was made.
Q You were in the Home Guard? A Yes sir.
Q And after the was was over you were paroled? A Yes sir.
Q And then you went to work?A Yes sir.
Q Who did you go to work for? A Just sometimes hired in a job of cattle, to Van Buren.
Q How long had you been working after the war before you went down to Van Buren after the war with that lot of cattle? A Three or four years.
Q Three or four years then, after the war was over, and you had been paroled, you went down to Van Buren with a lot of cattle?
A Yes sir.
Q And on that trip you stopped at this woman's house and staid all night with her family? A Yes sir.
Q And at thattime you got acquainted with her? A Yes sir.
Q That's the first time you ever saw her? A Yes sir.
Q And you have no knowledge of her before that time? A Yes sir.
Q Well you never knew her before that time? A No sir.
Q Have you been knowing her off and on ever since? A Ever since.
Q So you don't know where she was before you met her at that time? A No sir.

ROSE ROGERS, being sworn and examined by Commissioner Brackinridge, testified as follows:

Martha Albert et al 3 supplemental:

Q Give me your full name? A Rose Rogers.
Q How old are you? A I pronounce my age 56 years of ge.
Q What is your post-office? A Locust Grove.
Q In what district do you live? A Saline.
Q You want to give some testimony in the case ofMartha Albert and her children? A Just of her owners and where she lived.
Q How long have you lived in the Cherokee Nation? A I have been bred and born in Going snake District, I have been nowhere else.
Q Lived here all your life? A Yes sir, until I went south with my owners time of the war.
Q Where did you go? A Down in the Choctaw Nation.
Q You remember the first year when you went to the Choctaw Nation? A Yes sir, just when the war broke out we went to the Choctaw Nation.
Q Did you come back when the war was over? A Yes sir.
Q Who did you belong to in these days? A Cornelius Wright.
Q Who was it Martha Albert belongedto? A She belonged to Johnson Whitmire; her mother did.
Q Did she belong to Johnson Whitmire herself? A Yes sir, she belonged to Johnson Whitmire; her mother and her mother's children; I was about 11 years old.
Q How far dis Johnson Whitmire live from Cornelius Wright? A Five miles, on the mouth of Barron Fork, close to Pea Vine Creek.
Q You know where Martha Albert was during the war? A No sir, I don't.
Q What do you know about her after the war? A I haven't seen her since the war until I met her here on Fourteen Mile Creek.
Q When was that? A Just last year; I saw her since she was a little girl.
Q So you haven't seen her since you went down to the Choctaw Nation during the war until you met her out here on the Creek last years? A Yes sir.
Q And that's all you know about her? A Yes sir. I knew where she was bred and born on Barron Fork; she lived with johnson Whitmire; there was two brothers then, George Whitmire and Johnson Whitmire.
Q Did you see her during the war? A No sir.
Q You don't know anybody where she was taken? A No sir, but her people went south; they was in behind, so we went ahead of them; they located somewhere in the Choctaw Nation, but I couldn't say where.
Q You don't know about that? A No sir.
Q Did you know her in that day, before the war? A Yes sir, we were children together; just lived five miles apart; I just wanted to identify her mother, who they belonged to; and they were not sold out; I am qualified; I want to state what I know.
Q You know she was born in the Cherokee Nation and went out during the war? A Yes sir.
Q And beyond that you don't know anything except when you met her about a year ago? A Yes sir. We was raised together; gathered hazel nuts together.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this April 26,1901.

Commissioner.

To be filed in case of Nellie White, Cherokee Freedmen D 105.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Robert Barnes for the enrollment of himself as a Cherokee Freedman; being sworn and examined by Commissioner Breckinridge, he testified as follows:

Q Give me your full name? A Robert Barnes.
Q How old are you? A 33
Q What is your post-office? A Foreman.
Q In what district do you live? A Sequoyah.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A My youngest sister; all the children is grown but my sister. My mother is dead; I am applying for my brothers and sisters.
Q Why don't they apply for themselves? A Well I am putting in the case for us.
Q Are your brothers and sisters of all of age? A Yes sir, all but one.
Q Since they are of age why don't they apply for themselves?
A Well they will do that.
Com'r: The law requires thatm unless there is some very strong reason to the contraty.
Q You have one sister under age? A Yes sir.
Q Does she live with you? A Lives with my father.
Q Where is your father A He is at home.
Q He should apply for his child? A He don't claim any right himself
Q Yes but he is the father, and he should apply for his child.
Q You apply then for yourself; how long have you lived in the Cherokee Nation? A Always.
Q All your life? A Yes sir.
Q Give me the name of your father A Sam Barnes.
Q He is alive? A Yes sir.
Q Give me the name of your mother? A Jennie Barnes.
A Is she alive? A No sir, she is dead.
Q How long has she been dead? A About ten years.
Q You say your father is not a Cherokee Freedman? A Yes sir.
Q You have never lived anywhere except in the Cherokee Nation?
A No sir.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not found thereon.

1896 census roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

Kerns-Clifton pay roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

Q You don't appear to be upon any roll of the Cherokee Nation?
A I am on the Wallace Roll.
Q Could you have been enrolled under any other name? A No sir.
Q Has your mother lived with your father ever since they were married? A Yes sir.
Q Willie, Charley and Turner Barnes, are they your folks? A No sir
Q How old was your mother when she died? A I think she was about 42 or 3.
Q Where was your mother born? A In Goingsnake.
Q Was she a slave before the war? A Yes sir, said she was.
Q To whom did she belong? A Johnson Whitmire.
Q Where was she during the war? A I don't know sir.
Q Where were you born? A I was born in Sequoyah District.
Q Do you know where your mother was in '66 or '67? A Why she said she was living down there near Cherokee Station.
Q She was married to your father at that time? A Yes sir.

Com'r: Well, you see, so far we are without any evidence except hearsay evidence that you have, about your mother being either a slave before the war, having been set free in the Nation in any way, and about where she was during the war, and when she got back; you see you were not born until '67 or '68, according to your age, and you are not on any roll, and you had better have your father come in and apply for this child, and give testimony in your case; he may be able to throw some light on it.

Q Is there no witness you want to bring in? A Yes sir, Mat Albert.

MARTHA ALBERT, being sworn and examined by Commissioner Br ckinridge, testified as follows:

Q Give your name there, please? A Martha Albert.
Q How old are you? A I am about 57 or 8 years old.
Q What is your pos -office? A Melvin.
Q In what district do you live? A Live in Tahlequah District.
Q You want to give some evidence here in the application of Robert Barnes don't you, for enrollment A Yes sir.
Q You have made an application for yourself and two children? A Yes sir-
(Com'r: This is D 42.)
Q A trouble in your own application appeared to be to establish when you came back to the Cherokee Nation after the war? A I came backhere two months before the '66 treaty went off.
Q You know Robert Barnes do you? A Yes sir.
Q How long have you known him? A I have knowed him ever since he has been born; he was my sister's child.
Q Child of your sister, Jennie? A Yes sir.
Q She belonged to johnson Whitmire? A Yes sir.
Q Were you and she taken out of the Cherokee Nation during the war? A We went to Red River in the Choctaw Nation.
Q You didn't go across the river? A No sir, we never crossed into Texas.
Q Was your sister there with you? A Yes sir.
Q And both of you belonged at that time to Johnson Whitmire, did you? A Yes sir.
Q Well did she come back with you? A Yes sir.
Q Johnson Whitmire brought you both back? A No sir, my father bought us back.
Q ~~And~~ You and your sister came back together? A Yes sir.
Q What was the father doing down there? A Well we went south.
Q Was he working down there? A Yes sir.
Q On a plantation? A Yes sir, he was a free man; he always just dug wells around for people.
Q Your father was a free man? A Yes sir.
Q But your mother was a slave? A Yes sir.
Q Did she come back with you and your sister? A Yes sir.
Q What business did you say your father did? A He dug wells and worked around for people.
Q And he brought your mother and both of you back? A Yes sir.
Q In what year did he bring you and your sister? A 1866 when I come back here.
Q What time of the year was it? A It was in the fall of the year.
Q Where did your sister locate when she came back? A She located down here close to Cherokee Junction.
Q Were you in the same neighborhood with her? A Yes sir, right in the same yard.
Q Were you on a plantation or about the town? A I was on Cale Starr's place.
Q On a farm? A Yes sir.
Q He is not living now, Cale Starr, is he? A I don't know.
Q Any of his children living? A I don't know.
Q Is his wife living? A I don't know that, neither; I have been living in Sequoyah.

Q Are there any of the people who were living there on that place at that time living now? A No sir, not on that place; there wasn't no one there but us working on the farm; rented the place.
Q You and your sister were on that place? A Yes sir.
Q But there were no colored people on it but just you and your people? A Yes sir.
Q Well now how many people were in your family at that time, you and your sister and who else? A Me and my sister and our husbands.
Q Was your husband then living, Sam Barnes? A Yes sir.
Q And your husband, is he living? A Yes sir.
Q Has your husband testified in your case? A No sir.
Q Why didn't you bring your husband? A He is in here s me-wheres.
Q Your sister's husband is not here is she? A No sir.
Q Did your husband go around the country digging wells after he got back? A My father.
Q Was he with you when you got back? A Yes sir, brought us back.
Q Did he go around the country digging wells? A No sir, he didn't dig any wells after he got back.
Q What did he do? A He farmed.
Q Was he living with you there on Mr. Starr's place? A Yes sir.
Q Your father is dead now? A Yes sir.
Q Who had farms there in that neighborhood? A Old Uncle Jack Campbell.
Q Is he alive? A No sir, he is dead.
Q Anybody else? A Yes sir, Dave Choate had a place right there joining.
Q Named Chouteau? A Named Choate, Cherokee.
Q Is he living? A I don't know.
Q Do you know anybody who is living now that was living in that neighborhood there and knew you all? A Yes sir.
Q Well give their names? A Eliza Franklin, it aint Franklin now; that was her name when I knew her; her name is Eliza McCrady now.
Q Is she about the room now? A No sir, she is living down in Sequoyah; she is a Cherokee.

Examined by Cherokee Representative, W.W.Hastings:

Q Where were you married? A We married in slavery time; we married in the Choctaw Nation.
Q Your husband came back with you also? A Yes sir.
Q I thought you said your father brought you back? A Well my father was the leading one brought us back.
Q Where was your sister married? A She was married here under the Cherokee law.
Q She wasn't married down there? A No sir.
Q Her husband didn't come back with her, A No sir.
Q Where was Robert Barnes born? A Down in Sequoyah.
Q On what place? A Right there on the Cale Starr place.
Q That's how far from Ft. Smith? A About four miles.
A And by the river, on this side? A Yes sir.
Q You say Cale Starr was living there at the time? A No sir, old man Ellis Harlin was living there.
Q He had a family? A Yes sir.
Q One of them named Emma? A Yes sir.
Q She was living there? A Yes sir.
Q Another one named Ruth? A That's right.
Q She was living there at that time? A Yes sir.
And a boy named Oce.
Q And Oce was living there at that time? A Yes sir.
Q He knew your people now? A Yes sir.

Examined by Commissioner Breckinridge:

Q How many children have you? A I have got six.
Q Where was your oldest child born? A Born in Sequoyah.
Q After you got back after the war? A Yes sir.

Q How old is that child? A About 37 years old.
Q How long had you been married down in the Choctaw Nation when you got back? A We married [redacted] time of the war.
Q Along towards the last of the war? A Yes sir.
Q How long had you been married when your oldest child was born?
A [redacted] I couldn't go to work to tell you about that.
Q Been several years had it? A Yes sir.
Q How long had you been back here when your oldest child was born?
A She was born in '67.
Q How long had you been back here when she was born? A Well I say she was born in '67.
Q Who attended on you at the time of the birth of that child?
A The woman who attended on me is dead, Mandy Benton's mother.
Q Some of the old people living who remember when that child was born? A No sir, none that I know of; there wasn't no colored folks in there hardly then.
Q You don't remember how long you had been back in the Cherokee Nation when that child was born? A Yes sir.
Q How long? A She was born in '67.
Q I didn't ask you what year she was born in, I asked you how long you had been in the Cherokee Nation when that child was born?
A [redacted] Well I tell you she was born the next year after I come back here.
Q The next year after you got back? A Yes sir.
Q Was the child born in the spring, summer or fall? A Born in January..
Q And what time of the year was it you got here? A I got here in the fall of 1866.
Q In the fall before the January this child was born? A Yes sir.

COLLY ALBERT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Colly Albert, is the way I always sign my name.
Q How old are you? A I am 61.
Q What is your post-office A Melvin.
Q In what district do you live? A I live in Illinois District.
Q You want to give some testimony in the case of Robert Barnes do you, who has applied for enrollment? A Well, I can give some.
Q Well you are not here to apply for your own enrollment are you?
A No sir, not now; not at present.
Q Are you the husband of Martha Albert? A Yes sir.
(Com'r: Her case is D 42.)
Q Do you know Robert Barnes? A Yes sir.
Q How long have you known him? A I have been knowing him ever since he was born.
Q How long have you lived in the Cherokee Nation? A I have been raised and born here in the Cherokee Nation.
Q Were you a slave in old times? A Yes sir.
Q To whom did you belong? A Old lady Bushyhead, Nancy.
Q Where were you during the war? A I was down on Red River.
Q In the Choctaw Nation? A Yes sir.
Q Where did you live before that, on Nancy Bushyhead's place?
A Yes sir.
Q In what district was that? A In Going snake District.
Q You married your wife, Martha, down there did you, on Red River?
A No sir I married her after I come back; I lived with her but I didn't marry her until after we come back to the Cherokee Nation.
Q How long after you came back to the Cherokee Nation was it before you and she married? A About three years I guess; I joined the church and they wouldn't let me live in the church until I married.
Q Did you and she have any children until after you were married?
A Yes sir, she had two.

Q Two before you were married? A Yes sir.
Q That is, before you were married the way the church made you marry? A Yes sir.
Q You knew your wife's sister, Jennie? A Yes sir.
Q She was married to Sam Barnes was she? A Yes sir.
Q Did you come back with your wife after the war when she came from the Choctaw Nation? A I come a little ahead of her; a few days.
Q Just a few days? A Yes sir; she come with her father.
Q Did her sister Jennie come with her? A Yes sir.
Q She and your wife came together? A Yes sir.
Q Her sister Jennie was the mother of this Robert Barnes? A Yes sir.
Q What were you doing down there in the Choctaw Nation, farming?
A Yes sir, worked on the farm awhile.
Q Well you were working on a farm all the time weren't you? A Well sometimes I was driving a team.
Q Did you make a crop of cotton? A No sir, corn crop.
Q Where did you locate when you came back from the Choctaw Nation?
A Near Cherokee Station there on Caleb Starr's place.
Q What time of the year was it you got back there? A It was along in August sometime in August; I disremember just what day in August it was, but we got back there in August.
Q You think that was in what year? A 1866.
Q What fixes that on your mind? A Well I kept count of how long the war run; I knowed what year the war come in on.
Q How long had the war been closed when you got back? A I come back next spring after the war closed.
Q You fixed it on your mind that way? A Yes sir, that's the way it was.
Q You ~~knowk~~ know this woman Jennie Barnes, mother of Robert Barnes, whom did she belong to before the war? A I didn't know who ~~xxx~~ she belonged to; I know who they always said she belonged to; she belonged to same man my wife did.
Q What was his name? A Johnson Whitmire; I never got personally acquainted with him until I got down there on Red River.
Q Was Jennie Barnes older or younger than your wife? A She was youngest, her mother and father said.
Q Was she married there in the Choctaw Nation? A No sir, I don't think she was until we come back to the Cherokee Nation I think.
Q Married after she got back? A Yes sir, as well as I recollect, that's what they told me; I wasn't there when they married.
Q But you were seeing them all the time weren't you? A Yes sir.
Q Did you see her very soon after she was said to have been married? A She staid there with me awhile on the Caleb Starr place.
Q Where was she when she married? A She was over in Ft. Smith, I think, hired out.
Q And there is where she married Sam Barnes? A Yes sir, I think so.
Q How long was that after you had got back from the Choctaw Nation?
A It was about one year I think, not quite a year; it was about six months.
Q She staid with you awhile on the Starr place and then hired to do some work over at Ft. Smith and there married? A Yes sir.
Q And where did she live after that? A Lived up on Lees Creek there close by me.
Q How long did she stay at Ft. Smith? A I don't know exactly; not very long though; I don't recollect now just how long it was.
Q How long had she been married before you saw her; how long was it ~~xxxxx~~ after her marriage that you saw her? A It was about two or three months I guess.
Q You saw her two or three months after she was married? A Yes sir.
Q Where did you see her? A She come over to my house there on a visit; on the Caleb Starr place.

Q What creek was that yousay she lived on at one time? A Lee's Creek.
Q How long had had she been married when she began living on Lee's Creek? A She had been married as well as I can recollect, then about four or five years.
Q And she had quit work in Ft. Smith then had she, and gone to live on Lee's Creek? A Yes sir.
Q What was her husband doing all that time? A Why he was farming he went to farming after he come over into the Cherokee Nation.
Q But during that four or five years before he lived on Lee's Creek, you don't know what he was doing do you? A Yes sir, he moved over there and was hired out.
Q Moved over where? A The other side of Ft. Smith in the coal bank.
Q He worked there until he moved up on Lee's Creek? A Yes sir.
Q Now Sam Barnes, her husband, he makes no claim for himself as a Cherokee Freedman? A No sir, none as I ever known of.
Q He was working for wages up there about the coal bank I suppose? A Yes sir.
Q And after working there four or five years he then moved up on Lee's Creek and went to farming? A Yes sir, he was living over here when he was working in the bank; he had moved before he went to work over there.
Q What was his wife doing all that time when he was working at the coal bank? A She was working in the field there with me and my folks; they lived about three or four hundred yards from me.
Q You said just now she had come from over there up to Lee's Creek? A She did after they were married.
Q You said she came up there four or five years after they were married; and now you say she had come before that and lived with you: which one of these can I rely on? A I said about five years he lived over here and went back to work the other side of Ft. Smith about five years after he was married.
Q He went back there about five years after he war married to work? A Yes sir.
Q Well then how long did he live over there after that? A After he had moved over here?
Q Yes.? A I don't know sir how long he worked; I couldn't tell exactly.
Q You now tell me that after he was married he came over here and worked four or five years and then went back to Arkansas and worked on a coal bank? A Yes sir.
Q That's what you tell me now is it? A Yes sir.
Q Well then how long did he work on a coal bank? A I couldn't tell you exactly how long he worked.
Q You told me awhile ago he worked four or five years on a coal bank? A No sir, I don't think I did; If I did I made a mistake.
Q How much was it yousaid, more or less? A It was less than that.
Q Whose coal bank was it? A It was called Jenny Lynn, over there about Huntington.
Q The town of Jenny Lynn? A Yes sir.
Q How long did he work over there about that coal bank off and on? A As well as I recollect it was about a year.
Q Not four or five years? A No sir.
Q Did he take his family along with him? A No sir, his family was over here living right by me.

Examined by Cherokee Representative, W.W.Hastings:

Q Who was living on the Cale Starr place at the time you were, immediately after you came back with your ~~family~~ wife from the Choctaw Nation? A Ellis Harlin.
Q Did Ellis Harlin have some children living there? A He had two daughters.

Q What was their names? A Rutha and Emma.
Q They were living on the place at that time? A Yes sir.
Q Did he have any boys? A Yes sir, had one named Oce.
Q What was the other one's name? A I forget the other's name; he didn't come around there any more, the other one didn't.
Q They were living there at that time? A Yes sir.
Q They were single and unmarried and living there on the place at the time with their father? A Yes sir.
Q All of these children that you have mentioned? A Yes sir, all but Oce; I don't know whether he was married or not; he just came around; I don't know that he was; the girls though were single.

Com'r Breckinridge: The applicant states that he has lived in the Cherokee Nation all his life; he is not thirty-three years of age, but he is not identified on the roll of 1880 nor upon the ~~xxx~~ roll of 1896 nor upon the Kerns-Clifton roll; his mother is said to have died some ten years ago, and she is not identified on the roll of 1880; the testimony relating to his mother tending to establish that she came to the Cherokee Nation within the period required by the treaty of 1866, is of an indefinite character; a sister of the applicant's mother is on Cherokee Freedman doubtful card number 42, and the testimony of the husband of that sister, Colly Albert, is conflicting in its character; while this application is not established in any satisfactory manner, yet at present it will be placed upon a doubtful card for the further consideration of the evidence, and the final decision of the Commission will be made known to the applicant at his post-office address.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M.D. Green

Subscribed and sworn to before me this May 6th, 1901.

D.B. Breckinridge

Commissioner.

Department of the Interior,
Commissioner to the Five Civilized Tribes,
Fort Gibson, I. T. April, 18th 1901.

In the matter of the application of Lilly White for the enrollment of herself and two children as Cherokee Freedmen; she being sworn by Commissioner C. R. Breckinridge, testified as follows-

Q What is your name? A. Lilly White.
Q How old are you? A. Am 23 years old.
Q What is your post office? A. Melvin.
Q In what district do you live? A. Tahlequah.
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Want to enroll anyone besides yourself? A. Yes sir two children.
Q How long have you lived in the Cherokee Nation? A. All my life.
Q Give me the name of your father? A. Colly Albert.
Q Is he alive? A. Yes sir.
Q Give me the name of your mother? A. Martha Albert.
Q Is she alive? A. Yes sir.
Q Give me the names of these childr n? A. Mattie White.
Q How old? A. Three years.
Q Next one? Al Nancy White.
Q How old? A. One year.
Q You have been married have you? A. Yes sir.
Q To whom were you married? A. Henry White.
Q How old is he? A. 23.
Q When were you and he married? A. In '98.
Q You dont claim for him as a Cherokee Freedman? A. No sir.

MARTHA ALBERT, called and sworn as a witness testified as follows:

Q What is your name? A, Martha Albert.
Q How old are you? A. 57 or '8.
Q What is your post office? A. Melvin.
Q How long have you lived in the Cherokee Nation? A. All my life.

NOTE: ( By Commissioner ) Her card is Cher kee Freedman, D.43.

Q Are you the mother of this applicant here, Lilly White? A. Yes sir
Q Was she born in the Cherokee Nation? A. Yes sir.
Q Has she li ed here all her life? A. Yes sir.
Q Is she married? A. Yes sir.
Q What is the name of her husband? A. Henry White.
Q How long has she been married? A. Three years
Q How many children has she? A. Two.
Q What are their names? A. Mattie and Nancy.
Q Are th-y her own children? A. Yes sir.

The Kerns-Clifton roll of the Cherokee Nation examined and the applicant identified thereon as follows:
Page 159, No. 3935, Lillie Albert, ~~Saquoyah~~ Sequoyah distr

The 1880 authenticated roll of the Cherokee Nation examined and the applicant not identified thereon.

The 1896 census roll of the Cherokee Nation examined and the name of applicants not identified thereon.

By Com'r Breckinridge,-

The applicant applies for the enrollment of herself and two children. She states hat she has lived in the Cherokee Nation all her life. She is not identified on the roll of 1880 or the census roll of 1896. She is identified on the Kerns-Clifton roll. Her change of name arising from her marriage is established by her own and her mother

testimony. She will now be listed for enrollment as a Cherokee Freedman on a doubtful card, and reference is made to the case of her mother, Cherokee Freedman ~~xxxx~~ Doubtful card, ~~###~~. When the applicant files proper certificates of the birth of her 2c children, Mattie and Nancy White, they also will be listed with her for enrollment on a doubtful card as a Cherokee Freedman.

* * * * * * * * * *

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 18th of April, 1901, at Fort Gibson, I. T.

C Wheaton

Commissioner.

To be filed with case of Lillie White, et al., ctx C. F. D.#105.

# S U P P L E M E N T A L  T E S T I M O N Y.

F.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., MAY 21st, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen:

RUTH HUNT, being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
A. S. McKen, Attorney for Applicants;
W. W. Hastings, Cherokee Representative.

Q What is your name? A Ruth Hunt.
Q How old are you? A 54.
Q What is your post office address? A Vinita.
Q What is your maiden name?
By W. W. Hastings: Mrs. Hunt, what was your maiden name?
A Harlin.
Q What was your father's name? A Willis Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Where did you go during the war of the Rebellion?
A Fort Smith, Arkansas.
Q After the war did you return to the Cherokee Nation? A Yes, sir.
Q When did you return to the Cherokee Nation? A 1867.
Q What time of the year? A It was either February or March, I don't remember which.
Q But '67? A Yes, sir.
Q Did any colored people return with you to the Cherokee Nation when you came back? A No, sir.
Q Did you return with your father? A Yes, sir.
Q To what point did you return? A About four miles this side of Fort Smith, on the line of Arkansas, about a quarter of a mile from the line, Arkansas line.
Q Did you know a colored woman by the name of Martha Albert who is the wife of Colly Albert? A There was a man worked for us we always called him Albert, I don't know what his other name was, his wife was named Martha; he worked for us that summer we came back.
Q The summer of '67? A Yes, sir.
Q Did they return with you? A No, sir.
Q Were they ever there on the place when you returned? A No, sir.
Q Do you know where they came from? A No, sir, I don't but he went over in Arkansas somewhere and hired the man to come and work, but I don't remember where he got him. He had a man he work for us and the man quit and he went any somewhere and got this man, he got him in Arkansas somewhere towards Van Buren, but I don't know.
Q You brought no colored people back with you? A No, sir.
Q Did these people claim at that time to be Cherokee Freedmen?
A I never heard it; if they did I don't remember anything about them claiming.
Q Do you know what became of them after they left your place?
A No, sir, I never seen or heard tell of them until they was taking the roll at Vinita here before.
Q In 1896? A Yes, sir, that is the only time I have ever heard of them since.
Q Are you a Cherokee citizen by blood? A Yes, sir.
Q You reside at Vinita? A Yes, sir.

CROSS EXAMINATION BY A. S. McKEN:

Q Mrs. Hunt, did you know the applicant, Mattie Albert, before the war? A No, sir.
Q Do you know her at all? A I don't know her only just as far back as 1867; I remember there was a man worked for us by the name of Albert, we called the woman Martha and the man Albert, they worked for us here during the summer of 1867, that is all I know about it.
Q You don't know whether she is the one who belonged to Johnson Whitmire before the war or not? A No, sir, I don't know; I never heard her say that she belonged in the Nation before the war.
Q Did you know the Whitmires? A Yes, sir.
Q Did you know any of their slaves? A I can't remember them, I knew them but I can't remember them.
Q Now, this man Albert that worked for your father, you don't know his given name? A No, sir, we just called him Albert, and I don't remember what his other name was.
Q You don't know whether Albert was a given or surname? A No, sir; I don't know which it was.
Q Would you know the same persons if you would see them again? A I don't think I would, it has been so long.

RE-DIRECT EXAMINATION by Mr. Hastings:

Q How far did you live from Johnson Whitmire before the war? A About ten or 12 miles. I knew the family and I guess knew the slaves, I don't remember them now.
Q I believe you said you were 54, that would make you be born in 1847; you would be about 13 years old when the war come up? A Yes, sir.
Q I was going to ask you if you lived in ten or twelve miles of Johnson Whitmire and if this woman had belonged to him before the war, it is quite likely you would have known that in 1867? A It seems that she would have known people that I did and would have said something about it. I went to school with Whitmire's children and have been at Ben Whitmire's house and I guess would remember some of the names if I heard them recalled, but I can't remember them now.
Q You didn't recognize this women? A No, sir, I would not recognize her now.
Q You didn't recognize her then as belonging to Johnson Whitmire? A No, sir.
Q Never heard her remark about it? A No, sir.

EMMA FINLEY, being duly sworn by Commissioner T. B. Needles, testified as follows:

DIRECT EXAMINATION BY MR. HASTINGS:

Q What is your name? A Emma Finley.
Q What is your age, Mrs. Finley? A 61.
Q What is your post office address? A Tahlequah.
Q Are you a Cherokee by blood? A Yes, sir.
Q Recognized citizen of the Cherokee Nation? A Yes, sir.
Q Mrs. Finley, what was your maiden name? A Emma Harlin.
Q You are a sister of Mrs. Hunt she has just testified?
A Yes, sir.
Q What was your father's name? A Billie Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Did you ever live with your father after the war in the Cherokee Nation? A Yes, sir.
Q When did your father die? A '67.
Q Where did he die? A Both in Sequoyah district, near Fort Smith.

Q To what point in the Cherokee Nation did you return after the war? A Down on the line close to Fort Smith.
Q About how far from Fort Smith? A Four miles.
Q I ask you if any colored people returned with you? A No, sir.
Q What time did you return to the Cherokee Nation? A In '67.
Q What time in '67? A I am not positive what month it was, it was either February or first of March, I think.
Q Did any colored people return with you? A No, sir, there was not.
Q Do you remember a colored woman by the name of Albert, Martha Albert? A Why, yes, I remember her, she didn't come back with us.
Q She didn't come back with you? A No, sir.
Q When do you first remember of having seen her? A I think it was the last of March or first of April, I am not positive which, but it was along about that time.
Q It was after you returned to the Cherokee Nation after the war? A Yes, sir, after we come back in '67.
Q Do you know where she came from? A In the state some place.
Q She worked foryou that season, pr part of the time? A Part of the time.
Q She didn't come back with your or your father? A No, sir.
Q Do you know whether she claimed at that time that she was a Cherokee slave? A No, sir, she didn't; if she did I never heard her. Never claimed at all.
Q Mrs. Finley, did you know Johnson Whitmire before the war? A No, sir, I had heard of him but I was not acquainted with him.
Q You were young? A Yes, sir.

CROSS EXAMINATION BY A. S. McREA:

Q Mrs. Finley, where did you all go to before the war, did you leave the Nation? A Before.
Q Yes? A No, I left the Nation after the war began.
Q Left during the war? A Yes.
Q Where did you go to? A Fort Smith.
Q Did you know Martha Albert at that time? A When I left the Nation?
Q Yes? A No.
Q Where was the first time you ever seen Martha Albert? A In '67.
Q Where at? A In Sequoyah district.
Q At what time of the year was it? A It was in the last of March or first of April, I am not sure which.
Q In 1867? A Yes, in '67.
Q Do you know whether she had ever lived in the Nation? A No, I don't.
Q Did her husband work for you all? A Yes, in '67.
Q What was his name? A Colly, that is all the name I ever heard.
Q Just knew him as Colly? A Yes, that is all we called him.
Q Do you know whether or not they were slaves? A No, I don't know.
Q And you saw they came here from the State of Arkansas to work for your father in 1867? A Yes.
Q You don't know whether or not of your own knowledge they had been in the Territory prior to that or not? A No, I only know that he went over in the State and got them.
Q What were they doing in the State? A I don't know.
Q Don't know whether they were living there or not?
A I suppose they were living there; went there and got them.
Q Isn't it possible that they could have been over there at work?
A It is possible, it is not impossible, of course, they had everything they had over there.
Q [illegible] there possession in the regular [illegible]

Q Had all their possession in the State of Arkansas? A Yes.
Q Did they move those possession over to your father's place when they come there? A Yes.
Q What possessions did they have? A They didn't have much, just what they had in the house and one horse.
Q You don't know whether they left the territory or not?
A No.
Q And you don't know whether they come back in 1866 or not? A No.
Q And the first you knew about them was when they worked on your father's place in 1867? A Yes.

HARRY STILL, called as a witness on the part of Applicants being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Harry Still.
Q What is your post office? A Hayden.
Q What is your age? A Well, sir, I don't know exactly, something over 50.
Q You are a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A No, sir.
Q You are a contested citizen? A No, sir.

DIRECT EXAMINATION BY A. S. McREA:

Q Mr. Still, you are called on to give some evidence in the case of Martha Albert; are you acquainted with Martha Albert? A No, sir, I am not.
Q Did you know Johnson Whitmire? A Yes, sir, I knew Johnson Whitmire.
Q Did you know any of his slaves? A Yes, sir, I knowed his slaves, I knowed 'em all, he was a brother of my Master.
Q Did you know this woman Martha? A Martha Whitmire? I didn't know any Martha Whitmire.
Q Did you know Colly Albert? A I know Colly Albert when I see him.
Q Did you know him before the war? A No, sir, I didn't.
Q Did I understand you to first say that you knew Martha Albert, or that you did not know her? A I do not know her; I knew Johnson Whitmire's slaves, but I did not know her.
Q Do you know Eliza McCrady? A No, sir.

CROSS EXAMINATION BY MR. HASTINGS:

Q Where did you live before the war? A Lived on Barren Fork at George Whitmire's places.
Q What kin was George Whitmire to Johnson? A Brother.
Q How far did they live apart? A It must have been four or five miles.
Q Are you well acquainted with Johnson Whitmire? A Yes, sir.
Q Are you well acquainted with Johnson Whitmire's slaves?
A Yes, sir.
Q Did you know him to have a slave by the name of Martha?
A No, sir, I didn't know one by that name.
Q Didn't know one by that name? A No, sir.
Q You lived there in four or five miles? A Yes, sir.
Q If he had one you would have known it? A Johnson had a good many colored people; I know most of them, I knew all of them, all he raised.
Q This woman claims now to be about 54 or 55 years of age, which would have made her 15 or 16 years old when the war come up; you didn't know any Martha Whitmire that was some thing of that age that belonged to Johnson Whitmire? A No, sir.

Q How old are you, Nancy? A I am something over 50 years old, about 54 as near as I can get at it.

RE-DIRECT EXAMINATION BY A. S. McREA:

Q Did Johnson Whitmire own a slave by the name of Charles Whitmire, or Charles Bolen? A If he did I didn't know, he may, I have heard of Charles Bolen, but I don't know who he is.
Q Well, did he own a slave, family slave, by the name of Nancy?
A Not as I know of, sir.
Q Now, as I understand you to say, Mr. Still, you didn't know all the slaves of Johnson Whitmire? A Yes, sir; I was acquainted with 'em, they was kin to me.
Q You were kin to all them? A Yes, sir, kin by blood and I know them.

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J. O. Rosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

J. O. Rosson

Subscribed and sworn to before me this August 19th, 1901.

Commissioner.

File with Cherokee Freedman, D-105, Lillie White.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Testimony on behalf of Cherokee Nation.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

WATT WHITMIRE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Watt Whitmire.
Q What is your postoffice? A Westville.
Q How old are you? A 48.
Q What is your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte Whitmire.
Q In what district did your father live before the war?
A Going Snake.
Q Was there any other Johnson Whitmire in Going Snake at that time, that was grown, an old man with a family? A No, sir, not as I know of; there was a Johnson, a son; he is younger than I am.
Q Well, he was born about the time or after the war came up, or when; about how old is he? A He is some thirty odd, some 37 or 8.
Q Did your father own some slaves when the war broke out? A Yes, sir.
Q Do you know whether or not your father or your mother owned a slave by the name of Martha when the war broke out? A No, sir, not as I know of; none by that name.
Q Did your father or mother own a slave by the name of Nancy, a woman? A No, sir, not as I know of.
Q This Martha, according to her statement, would be some 14 or 15 years of age at that time? A No, sir, I don't recollect nary one by that name.
Q You are Johnson Whitmire's son? A Yes, sir.
Q You were living at home at the time the war broke out? A Yes, sir.

By A. S. McRea: Mr. Whitmire, how many slaves did your father own?
A I don't know the exact number.
Q Were you acquainted with the names of all the slaves of your father? A Why I believe I recollect the oldest, I don't know that I recollect the smallest children's names, of all.
Q About what was approximately the number of old slaves? A Well, I will have to count them up.
Q Well, give an approximate statement? A About 12 or 14, or somewhere along there; I don't know just exactly.
Q Did he own a slave by the name of Nancy? A Not as I recollect of; I don't recollect any such name.
Q About how old were you at the breaking out of the war? A I was born in '38; I believe the war broke out in '62, wasn't it; about '61.
Q You were about 9 years old? A 9 or 10 years, somewhere along there.
Q Now couldn't he have possibly owned this female girl and you not have any recollection of it? A I recollect all the names from my size up, but I don't recollect of any such name of Martha. There wasn't but two girls, and one was named Mary and one Mannie.
Q They were the only two female colored girls of the ages of 12 or 14 years old? A Well, they were younger than that; Mannie was younger than that and Mary was I reckon maybe one or two years older

than me; I don't know exactly, but I just judge from her size.
Q Well now, do I understand you to say this number of fourteen or fifteen adults, or older slaves, did they have any children? A Oh yes, that included men and women together.
Q Included men and women together? A Yes, sir.
Q Did they have any children? A Yes, sir.
Q Do you remember the names of them all? A Well not of all, I remember the names of some of them.
Q About how many children did each family have? A Well, there was one woman by the name of Fronie had one child named Susie, and there was an old lady named Sukie had two or three, and I don't recollect the names of but one boy, his name was Joe, and this girl Nannie I spoke of was the child of old Aunt Sukie; and there was one by the name of Rachel, I don't recollect just how many children she had, but one or two or three, somewhere along there; they were quite small when the war broke out.
Q That is all the children? A No, sir, I don't recollect just how many children there were in the while family of the darkies, but there was Rachel's children, and Aunt Sukie's children, and Fronie's child. one child, I believe isall I recollect of.
Q Well, where did your father's slaves go during the war? A Well I can't tell you exactly; my understanding is they went north.
Q That they all went north? A Yes, sir, part of the men folks left here before I left the old place, and when I left there I left part of the women folks at home, at the old home place.
Q Leave any of the children? A Yes, sir.
Q Have you any recollection what became of them? A No, sir.
Q Did you ever see any of them any more? A No, sir, never saw any ~~xxx~~ of them any more at all.
Q Did you go away yourself? A Yes, sir, taken away.
Q Where did you go? A Went from there to Cane Hill, Arkansas.
Q When did you return? A After peace was made; went on from Cane Hill south.
Q Have you any acquaintance with this alleged party to this suit, Martha Albert; are you acquainted with her? A No, sir.
Q Don't know her? A Don't know her at all.
Q How long have you lived in the Cherokee Nation now since your return from Cane Hill; was that the place you went to? A Went from the Nation to Cane Hill and from Cane Hill went south in the Choctaw Nation.
Q Then when did you return from the Choctaw Nation to the Cherokee Nation? A Returned in '67.
Q To what point? A Back at the old home place in Going Snake district.
Q You have lived here continuously ever since? A Yes, sir.
Q Were you extensively acquainted with the colored people in and around, or rather in Going Snake district? A Yes, sir.
Mr. Hastings: Now as I understand you, Mr. Whitmire, you stated that you remember all of the slaves that were of your age and older, but those that you don't remember were those that were younger or smaller? A Yes, sir; I remember some that were younger than I was, them that I called a good while ago.
Q You are positive your parents didn't own a slave by the name of Nancy? A No, sir, none that I know of, there wasn't any Nancy on the place, and I believe I can call the names of all the women.
Q Are you positive your parents didn't own a girl older than yourself named Martha? A No, sir, wasn't any on the place named Martha.

J. W. ALBERTY, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A J. W. Alberty.

Q Mr. Alberty, what is your age? A Well, I am 67 years old.

Q What is your postoffice? A My postoffice is Westville, Indian Territory.

Q What district do you live in? A I live in Going Snake district.

Q You a Cherokee by blood? A Yes, sir.

Q Mr. Alberty, where did you live in the Cherokee Nation before the war? A In Going Snake district.

Q Near where you now live? A Yes, sir.

Q Did you know Johnson Whitmire? A Yes, sir.

Q Did you know him before the war? A Yes, sir.

Q How far did you live from him? A Well, it was about ten or twelve miles, I reckon we called it.

Q Did you know his family? A Well, yes I knew his family.

Q This witness here before, named Watt Whitmire, was he a son of Johnson Whitmire? A Yes, sir.

Q I will ask you if you were acquainted with a colored man by the name of Charles Boland before the war? A Yes, sir, he was a mixed blood, free.

Q I will ask you if you knew a colored woman by the name of Nancy Whitmire, alleged to have belonged to Johnson Whitmire before the war?

A Yes, sir, I knew her.

Q Now, if you know what became of Nancy Whitmire and Charles Boland I wish you would make a statement to the Commission? A The Whitmire boys sold Nancy to a man named Dillingham, and he moved right across the line from where I lived, five or six miles, and owned them there until he moved off to Texas, Charles Boland and Nancy: I knew them better after Dillingham got them than I did before.

Q Who sold them to Dillingham? A The Whitmire boys, George Whitmore and Johnson Whitmire: they were brothers and they sold them at the time they divided up the property.

Q Now about how long before the war was that they sold them, about what year? A I reckon it must have been in '47 or '8, I haven't got the dates, I wasn't expecting anything of this kind, and I didn't get the dates, but it must have been in '47 or 8.

Q What was Dillingham's citizenship? A He had none.

Q Was he a white man or Cherokee or what? A He was a white man and lived in the state.

Q What state? A Arkansas.

Q Lived across the line in the State of Arkansas? A Across the line, yes, sir, in the State of Arkansas.

Q Do you know what finally became of him out there? A Mr. Dillingham, in about '50 or '51 moved to Texas and carried the family, and Boland went with them, he was free but he followed this family off to Texas.

Q Do you know whether he had Nancy for a wife or not? A Yes, Boland had this Nancy for a wife, and claimed the family, and when Dillingham carried the family off he went with them.

Q How far did this man by the name of Dillingham live from you?

A About five or six miles.

Q Now how far did you live from the Cherokee line up there?

A Well about that time I only lived about half a mile, right at it.

Q On the west side of the Cherokee and Arkansas line? A On the west side of the Cherokee line.

Q And Dillingham lived on the Arkansas side? A On the Arkansas side, just over near what is called Dutch Town or Salem.

Q He laid no claim to Cherokee citizenship? A No, sir, not a bit; he had a son that was adopted, but the old man had none.

Q And I believe you stated that along about '50 Dillingham carried these people to Texas? A He carried them to Texas.

By A. S. McRea: I understand you to say Johnson Whitmire sold Nancy? A Yes, sir.

Q Nancy Sheppard then did belong to Johnson Whitmire? A Yes, sir, she did belong to Johnson Whitmire; there were two brothers of the children, George and Johnson Whitmire, and they owned an interest in them and they both sold their interests.

Q About what year was that? A Well sir, I can't positively say, but it was in or about '47 or '8; I have nothing to guide me by.

Q Do you know Martha, the child of Nancy? A No, sir, they were all small when they went off, I don't know any but a boy they called Ellis; Dillingham brought him back with him just a little while before the war came up.

Q Did Nancy have children when Johnson sold her? A Yes, sir.

Q Did he sell the children with her? A Yes, sir.

Q Nancy's whole family was sold? A The whole family went, yes sir.

By A. S. McRea: Mr. Alberty, where do you live? A I live in the eastern part of the Cherokee Nation here.

Q And you say Johnson Whitmire sold Nancy, the alleged mother of the applicant, Martha Albert, in 1847? A I didn't say the time he sold her, because I don't know that, he sold Nancy, Charles Boland's wife to Dillingham, and the children, but I don't knew nothing about Martha at all, I didn't say the mother of her, but if she is the daughter of Nancy, why she - -

Commissioner: Was sold with the balance, was she? A Yes, sir, sold with the balance; the whole family was sold.

A. S. McRea: To whom did you say they were sold? A Dillingham.

Q Where did he live? A He lived in Texas.

Q Do you know of your own knowledge that this woman, Nancy, went to Texas? A Yes.

Q How do you know that? A I saw them start.

Q Did you see them arrive? A I didn't see them arrive in Texas, but I saw them start on the road.

Q Do you know whether or not, of your own knowledge that they arrived there? A No, sir, I can't say that, ~~because~~ but I guess from all the circumstances they did.

Q What fixes it on your mind so very definitely that they were sold in '47? A Well, just as I said before, I said I wasn't positive about that, but it was in or about that time.

Q For how much was she sold? A Well I can't exactly say now what they did bring, because they got some horses and some cattle and some money.

Q How many horses? A I can't answer that question.

Q How many cattle? A I don't know.

Q How much money? A Well, I don't know that that would amount to anything, because it was satisfactory to them.

Q You say they were sold and we want to know what was the status of the sale? A Well I don't know the amount that they got for them, I can't say.

Q Did you see any money exchanged? A No, sir, but after that they changed hands, the darkies went.

Q It is true, they could possibly have changed hands without any sale? A Well hardly them days.

Q Then in so many words, you don't know whether that was a bona fide sale or not or your own knowledge? A Well, of my own knowledge, I would have to say it was a bona fide sale, or else he wouldn't have taken them out of the Cherokee Nation.

(Foregoing answer read by stenographer at request of attorney for applicant.)

Witness: Yes, sir.

McRea: He said you would suppose it was a bona fide sale.

Commissioner: Was that your answer?

Witness: A Yes, sir.

Commission: How long after the sale was it before Mr. Dillingham taken them to Texas? A It must have been 2 or 3 years, they lived right there close neighbors to us two or three years after they

bought them.

Q With whom? A with Dillingham, in the State of Arkansas.

Q Then when the sale was made Dillingham at that was time was living in Arkansas? A Yes, sir.

Q Is your first statement that he was living in Texas correct, at the time of the sale? A No, sir, I didn't make that, he was living in Arkansas and moved to Texas, I said, in about '50 or '51 and taken them with him in about '50 or '51.

McRea: I would like to examine the face of the record.

Commissioner: The record shows for himself. If the witness contradicts himself the record shows it. I think the witness did state when you asked him where Dillingham lived, that he lived in Texas, but you didn't specify the exact time when he lived, but the witness stated plainly now at the time Dillingham bought the slaves he lived in Arkansas and moved to Texas a few years after.

McRea: Did you ever see Nancy Whitmire any more? A Well, I never saw her after he moved off to Texas with her.

Q Are you acquainted with Martha Albert, the applicant in this behalf? A No, sir.

Commissioner: You don't know Martha at all then? A No, sir; well there were several children, but I don't recollect their names; there were several children then only they were small.

Q You have never seen the averred mother of Martha, Nancy, after Dillingahm took her to Texas? A No, sir.

McRea: And you don't know whether or not this woman, Martha, was one of the number of these children that accompanied the mother, Nancy, to Texas or not? A No, sir, I don't.

Commissioner: Did Nancy have children to your recollection?

A Yes, sir.

Q You don't recollect how many? A Well, no I don't, there was three or four, four children, there might have been more and might have been less.

Q Know whether they were boys or girls? A There was one boy.

Mr. Hastings: I believe you states that these children that she had went with her? A Yes, they all went with her.

McRea: About what was the age of these children? A Well, they were small, they were not very large.

Q Say 4, 5, 6 ~~years~~ or 10 years, something like that? A Well, he must have been 6 or 7 or 8 years old, maybe 10, I can't state that.

Q Was that a girl or a boy? A I think the oldest one was a girl.

Commissioner: This testimony will be made part of the testimony in the cases, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152, D-146, D-182. Attorney McRea for applicant objects to testimony being filed in the case of Robert Barnes et al., and the objection is overruled.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above cased, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 5th of September, 1901.

Commissioner.

File with Cherokee Freedman D- 105, Lillie White.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 11, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Supplementary evidence introduced on behalf of applicants.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

The Commission: Now Mr. McRea, state briefly what you desire to prove by this witness.

A. S. McRea: Applicant desires to offer testimony in behalf of herself et al., by Sam Barnes, showing that mother of applicants did return to the Cherokee Nation within the time of the treaty stipulations, and that so far as the sale of she and her mother to one Dillingham, it is untrue.

The Commission: When you speak of the applicant, I suppose you mean Martha Albert?

McRea: Yes, Martha Albert and others.

Mr. Hastings: The Cherokee Nation objects to the applicant being allowed to introduce any testimony in this case on the question of the return of any of the applicants, for the reason that applicants introduced their testimony on both ownership and return, and the Cherokee Nation introduced testimony on both, and the only testimony which can legally be introduced by the applicant now as testimony in rebuttal of new matter brought out by the Cherokee Nation in its testimony.

The Commission: The objection of the Cherokee Nation will be noted.

S. B. BARNES, appearing before the Commission and being duly sworn and examined, testified as follows:

A. S. McRea: Give us your name, Mr. Barnes? A S. B. Barnes.

Q Your age? A About 57, going on 58.

Q Postoffice address? A Bango.

Q Mr. Barnes, are you acquainted with the applicant, Martha Albert? A Yes, sir.

Q How long have you known her? A I have known her going on 37 years.

Q Do you know whether or not she was a slave in the Cherokee Nation before the war of the rebellion?

Mr. Hastings- I object to that, both because the very testimony itself shows that he didn't know that; said he hadn't known her but 37 years.

Commission: Ask him the question.

Q Where was she when you first knew her? A She was down here right close to Cherokee.

Q Where is that? A That is down right on the line, at the Cherokee Junction.

Q Was that in the Cherokee Nation? A Yes, sir.

Q Did you know her mother? A Yes, sir.

Q What was her mother's name? A [illegible].

Q How long had you known the mother? A I got acquainted with her in '65.

Q Where was she when you first met her? A I met her down there.

Q In the Cherokee Nation? A Yes, sir.

Q Do you know whether or not that was one of the [illegible]

or not?

Mr. Hastings: He says he never met them till '64 and '65; you ought to know that he can't testify to that.

McRea: He might have heard; we have been taking hearsay testimony.

Commission: Answer the question.

A I don't know.

Q Did you ever hear of the mother of your wife, Sarah Barnes, having been sold to a man by the name of Dillingham?

Mr. Hastings: Objected to by the Cherokee Nation on the ground of hearsay.

Commission: Ask him if he knows.

Q Do you know? A No, sir, I don't know it.

Q Did your wife ever tell you they were sold.

McRea: What his wife told him is admissable.

Mr. Hastings: Objected to by the Cherokee Nation on the ground that it is clearly inadmissable, it being hearsay testimony, and a declaration in interest of the party.

Commission: Let him answer the question.

Q Did your wife ever tell you whether or not she and her mother were sold to Dillingham of Arkansas? A No sir, she never did.

Q I will ask you if you and your wife ever had any conversation pertaining to her citizenship?

Mr. Hastings: Objected to by the Cherokee Nation for the reason that it is clearly hearsay and inadmissable.

McRea: That is not hearsay testimony.

Commission: I will let him answer the question.

Mr. Davenport, Cherokee attorney: I will object on the ground that he can't testify for or against his wife, under the rules of law. I think I recollect that the Commission has served notice that it would follow the ordinary rules of evidence.

McRea: The Commission served notice that it would not confine itself to the different rulings and technicalities of law in trying testimony in this matter.

Commission: Go on with the examination, Mr. McRea.

(Question read to witness by stenographer.)

A Why of course, she met the John Chambers Court at Tahlequah.

Q Where did you marry your wife? A Marry her; we were engaged here in the Cherokee Nation but we were married at Fort Smith.

Q She was living in the Cherokee Nation when you courted her?

A Yes, sir.

Q Now when did you marry her? A I married her in November, '66.

Mr. Hastings: Where did you live before the war? A I lived in Texas.

Q What county? A Fannin County.

Q What was your owner's name? A Higginbotham.

Q What was his first name? A Thomas Higginbotham.

Q What was the nearest town to you? A Bonham.

Q Did you know Jerry Starr down there? A No, sir.

Q Did you see your wife down there? A No, sir.

Q You didn't? A No, sir.

Q Did you see Nancy Whitmire, or Nancy Boland, down there? A No, sir

Q See Martha Albert? A No, sir.

Q How old are you? A I have turned 58 years old.

Q What is your father's name? A My father, Bob Barnes.

Q When did you leave Texas? A I left Texas directly after the war ended.

Q Well, did you make a crop down there the year the war ended?

A I wasn't big enough, I didn't make no crop.

Q Who were you living with? A I was living with my old mistress.

Q She wasn't a Cherokee? A No, sir.

Q Well, did you make a crop with your old mistress, or for her, that year? A Yes, sir.

McRea: I object to all that; it is irrelevent to the question at issue.

Commission: Answer the question.

Q You made a crop for her you said? A Yes, sir.
Q The year the war ended? A Yes, sir.
Q Now then you stayed there then that year? A I left there just as the war was up.
Q I thought you said you made a crop there? A I did.
Q Then you laid that crop by, did you? A The war came to an end in the spring of '65 if I understand anything.
Q Well, how did you come to leave Texas and who did you go with?
A I come by myself.
Q Just alone? A Yes, sir.
Q Come afoot? A No, sir.
Q How did you come? A I had a horse.
Q Well, where did you come to? A I come to Fort Smith.
Q You had never been to Fort Smith before? A No, sir.
Q You had never heard of Fort Smith in your life before? A Oh yes sir, I hadn't been dead I don't reckon, I was a man.
Q How far below Fort Smith did you live when you lived in Texas?
A From Fort Smith?
Q Yes? A You mean just out on the river?
Q In Texas? A It is about 200 miles.

McRea: I object to that, the question is misleading in its nature, and I object to it.

Commission: He has already answered the question.

Q You came direct to Fort Smith? A Yes, sir.
Q Who did you work for there? A I worked for Bill Belt, five miles out south of town.
Q How long did you work for him? A I worked there a couple of weeks, or about a week, or couple of weeks.
Q Then where did you go? A I crossed over here in the Cherokee Nation.
Q What induced you to leave down there and leave your folks and go to Fort Smith at that time? A Just because I had a notion to go to Fort Smith.
Q Then what induced you to leave Fort Smith after being there only two weeks and go over on the Nation side? A Just because I wanted to go.
Q You didn't know anybody ever there, did you? A No sir.
Q You had never seen a soul? A Of course I had seen people.
Q You had never seen one of them over there at Fort Smith?
A Not from across the Cherokee Nation side, across the river; why I saw people down in Fort South out of the Cherokee Nation.
Q Who did you meet that lived on this side of the river, at Fort Smith? A I met Tom Stoneroad and Mrs. Franklin, I don't know how many people I didn't meet.
Q Whose place did you go to on this side of the river first? A I was at Mr. Stoneroad's place the first place I was at, right on the line.
Q How long did you stay there? A I didn't stay there but an hour or two.
Q Then where did you go? A I went back to town.
Q How long did you work there in town? A I don't know exactly how long.
Q A year? A I don't know exactly how long I worked in town.
Q 25 years? A I might not have worked there more than two hours, I don't know.
Q Don't know whether it was an hour or 25 years? A Yes, sir, I do know how long.

McRea: He has answered that he don't know.

Commission: Let him answer the question.

Q About how long? A I worked there two or three different times,

sometimes I would be in town a week and sometimes not but a day or two and sometimes two or three days.

Q Where were you making headquarters, or home? A I made headquarters sometimes out at Bill Bell's and after that I worked for Tom Stonecoad some night on the line of the Cherokee Nation.

Q How long did you say a while ago you had been married? A I said I married in November, '66.

Q How many years did you say that was? A I didn't say nothing about the years.

Q Who married you? A I was married by the clerk.

Q What was his name? A I don't know his name.

Q Clerk of what court? A Clerk of the Court there, at Fort Smith.

Q On the Arkansas side? A Yes, sir.

Q You got a license over there, and he married you? A I think I got license.

Q Now what is your full name? A Sam B. ~~Jones~~ is my full name.

Q What is your wife's name? A Her name was Jennie.

Q Jennie what? A Jennie Boland.

Q She is a sister to Martha Albert? A Yes, sir.

Q Younger than Martha? A Yes, sir.

Q Have you ever been married before? A Yes, sir, had been married twice before.

Q Where had you been married? A In Texas.

Q What was your first wife's name? A Anna.

Q She dead? A Yes, sir.

Q What was your second wife's name? A Name was Mandy.

Q What year was it they had that investigation, that Chambers Court you speak of? A That was in '76.

Q Was your wife admitted or rejected? A Must have been rejected by us having to be here.

Q Did you make a statement up there before that Court? A Yes sir.

Q You never saw your wife before the war? A No sir.

McRea: Did you see the mother, Nancy Boland, of your wife and Martha Albert, here in 1866? A I seen her here, yes sir.

Q In the Cherokee Nation? A Yes, sir.

Q Is she living now? A Who is that?

Q The mother, Nancy Boland? A Oh no, she died in '68.

Q Where was she buried? A Buried on this side the river there somewhere.

Q In the Cherokee Nation? A Yes, sir.

Q Did you see the father, Charles Boland I believe was his name? A Yes, sir.

Q In '66 here in the Cherokee Nation? A Yes, sir.

Q Is he alive now? A No, sir, he is dead.

Q When did he die? A He died in '72.

Q Where was he buried? A He is buried on Lees Creek.

Q In the Cherokee Nation? A Yes, sir.

Mr. Hastings: On whose place is Nancy Boland, the mother of Martha Albert and also of your wife, buried; who owns that place now? A She was buried at what was called the Jack Campbell graveyard.

Q That Nancy Boland, where is she buried? A She is buried I think at Mrs. Franklin's graveyard.

Q Do you know it? A That is where I was told she was buried.

Q What time did she die? A She died in '68.

Q Spring, summer or fall, before you married or after? A Just before I married.

Q Did you ever see her? A Heard her many a time.

Q In person? A No sir, never seen her in person.

Interpreter

Mr. Hastings: Myrtle is hereby sworn as interpreter

in the case of Martin Ebert and the referred cases, that the Cherokee Nation desires to introduce testimony in them on Friday, the 20th inst. between the hours of eight in the morning and five in the afternoon.

Mohan: The applicant will on said date introduce additional testimony in the case at bar.

Commission: This testimony will be filed in the following Cherokee Freedmen cases: D-42, D-146, D-152, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152.

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Bruce G. Jones, being duly sworn, says that as stenographer to the commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce G. Jones

Sworn to and subscribed before me this the 13th of September, 1901.

Commissioner.

COMMISSION TO

FILED

SEP 23 1901

File with case of Lillie White, C.F.-D.#106.

Supl. C.F.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 17, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen, introduced on the part of the Cherokee Nation.

APPEARANCES:
W. W. Hastings, Attorney for Cherokee Nation;
A. S. McRee, Attorney for applicants.

J. W. HUGHES, being duly sworn, testified as follows on part of the Cherokee Nation. BY MR. HASTINGS:

Q What is your name? A J. W. Hughes.
Q Post office? A Ramey.
Q What is your age? A 53.
Q Are you a citizen of the Cherokee Nation? A Well my wife and children are, I wasn't married according to the Cherokee laws.
Q When were you married? A I were marri ed in '69, July, '69.
Q Where did you live that year after you were married? A I lived in the Indian Territory on Joe Purdue's place on Webber creek, in a mile and a half or two mile beyond Dig Lees creek.
Q That is in Sequoyah district? A Yes, sir.
Q And about how far from Fort Smith, Arkansas? A Well, accordi ng to the line straight through, about eight miles.
Q Do you know Colly Albert, a colored man? A Yes, sir, I was acquainted with him there.
Q Were you acquainted with his wife, Martha Albert? A Yes, sir.
Q Did you know Martha Albert's father? A Yes, sir, that is what they claimed to be her father.
Q Well, what was his name? A His name was Boldan, I could not tell you what his given name was. He claimed his name was Boldan.
Q Well, he was recognized there as the father of Martha Albert?
A Yes, sir.
Q Did you know Martha Albert's sister, Jennie Barnes?
A Yes, sir, I was well acquaint ed with them, lived in a half mile of them about four years.
Q Did these children do any work for you in these early days, '69 or '70? A Well, in the year of '70 when I was living there on the place they were living a quarter or half a mile below me, I rented a place from Joe Purdue and they were living joining that place, and I hired them to chop cotton for me and also to pcik cotton and work; and do some other work making rails and fixing fence, and I worked there with them two or three years; they worked for me.
Q Did you ever have any talk, or hear any members of this family make any statement as to where they come from and their whereabouts prior to that time? A I have heard Boldan and his daughter, Colly Albert's wife, I never have heard Colly speak anything concerning it as I remember at this time.
Q Well, from Boldan or Colly's wife, Albert? A I heard Boldan.

Mr. McRee: I object to anything Boldan said.

Commission: Note the objection and answer the question.

A I heard him saying he was in Texas; he claimed himself to be part [illegible], if I mistake not, and that he was not a slave; he claimed [illegible] but not why the children [illegible] and two children--that they were sold out of here and [illegible] by somebody, and I don't remember just who he said carried them away, but the fact I remember about it that he had two children, Martha and Jennie, two girls, if I mistake not, he went as I can possibly think of it not at the present, and that he came along for his children" and was glad I seemed to understand from his talk,

and that he still lived there when the war closed and moved back, but I never was acquainted with him until '69 or '70.
Q Well, did he say when they went to Texas? A No, sir, I don't remember.
Q Well, as to the war or before the war? A It must have been before the war.
Q Did he say that his wife and children were sold? A I think he did, I won't be positive about that, but I think he did. I remember one thing he told me, he was mighty jokey and working for me there picking cotton and chopping cotton and talking about his ups and downs down there in Texas, and what makes me think that you know, I asked him you come from down here in Texas and he spoke about his wife and children being sold out, and if I mistake not, he told me before the war they were sold out, I won't be positibe about that, but it seems to me that he did, and then at the close of the war, or after the war a while he come back, but I don't remember anything about the time, date; I never was acquainted with him until '69, we made a crop there that year and now come me to get acquainted with him is what I say, I had rented that place of Joe Purdue's on the creek and we made a crop there that year and I made a crop there in '70.
Q Well, did you ever hear Martha Albert say anything about her whereabouts, where she came from? Well she claimed, if I understand it, she claimed that she come from Texas.
Q Do you remember whether you ever heard Jennie Barnes saw anything about where she come from? A I never heard Jennie Barnes say anything about it, she was not about our house, but these others they worked for me a great deal.
Q Do you remember whether Boldan made any statement as to who his wife formerly belonged to up here in this country before the war?
A I just don't remember.
Mr. McRea: I object to that.
Commission: Your objection will be noted.
A It seems to me that she was a whitmire, I won't be positive about that now
MR. McREA: Mr. Hughes, you say your first acquaintance with Martha Albert and her family was in '69 or '70? A First acquaintance was '69, and in the fall of '69.
Q You knew nothing of them before that? A No, sir, I did not know them before '69, I could not tell you just what time of the year, but it must to have been, the best knowledge I have about it now, was in '69, and what makes me think so I was married in '69, in July.
Q When was the last time you saw Martha Albert? A I suppose it must have been two or three years ago the last time I remember seeing her, two or three years ago.
Q Did you ever give testimony in this matter before?
A I never have, never was called on.
Commission: This testimony will be made a part of the record in the following cases: D.#42, D.#146, D.#102, D.#99, D.#100, D.#101, D.#102, D.#103, D.#104, D.#105, D.#114, D.#130, D.#131, D.#132.

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I, C. Rosson, being first duly sworn, states that as stenographer for the Commission on the First Creek Tribe he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.

Subscribed and sworn to before me this September 28th, 1931.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
Muskogee, Indian Territory, April 27, 1905.

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In the matter of the application for the enrollment of Martha Alberty et al. as Cherokee Freedmen.

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It appears from the records of the Commission that on the 11th day of January, 1904, the Commission rendered a decision in the above case, denying all the applicants therein, which decision of the Commission was approved by the Secretary of the Interior on June 21, 1904. It further appears that on March 25, 1905, this application was remanded by the Secretary of the Interior for further hearing.

Now on this, the 27th. day of April, 1905, the applicants appeared in person and by their attorneys, Neal & London, the Cherokee Nation represented by Ball, Hastings & Davenport.

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Witness for applicants.

A. J. Alberty, being duly sworn, testified as follows:

MR. NEAL:

Q What is your name? A A. J. Alberty.
Q Where do you live? A Near Stilwell.
Q How long have you lived in the Cherokee Nation? A I was born there.
Q How old are you? A About 58 years old.
Q You are a Cherokee by blood? A Yes sir.
Q Were you acquainted with Johnson Whitmire before the war? A Yes sir.
Q How far did you live from him before the war? A I guess a couple of miles.
Q Were you acquainted with his slaves? A Yes sir.
Q Do you remember anything about his selling some slaves into Arkansas some time before the war? A Yes sir.
Q To whom did he sell them at that? A A man by the name of Williamson.
Q Do you know whether or not a boy named Henry sold at that time? A I think so.
Q Do you know this applicant? A Yes sir.
Q Did you know her before the war? A Yes sir.

Q To whom did she belong previous to the Rebellion? A Johnson Whitmire.
Q Was he a Cherokee Indian? A Yes sir.
Q Was she sold by Whitmire previous to the Rebellion? A Yes sir, I think she was.
Q Do you mean this applicant? A No sir.
Q Did he have two slaves by the name of Martha? A Yes sir, one was called big Martha and the other little Martha.
Q Which one was sold? A Big Martha was sold.
Q Was thisone little Martha? A Yes sir.
Q Was she sold? A No sir, the other one was sold to Dilingham.
Q Do you know who took her out of the Cherokee Nation when the war broke out? A Thisone?
Q Yes? A I think it was Cornelius Wright.
Q Was he the boss who took the Whitmire niggers out? A Yes sir.
Q Did you, at any time during the war or at the close of the war, see this applicant anywhere, and if so, where? A After the close of the war I was down there in the Choctaw Nation on Red River, and I learned from the Choctaws that there were a lot of refugees there. I looked out for them, and found some of the Whitmire slaves.
Q Was that in the Choctaw Nation? A Yes sir.
Q When was it? A I think to the best of my knowledge, that it was in the fall of '65.
Q Do you know of your own knowledge when she returned to the Cherokee Nation? A No sir, I don't.
Q What was this woman's mother's name? A She went by the name of Nancy.
Q What was thename of the other Martha Whitmire's mother? A I think her name was Dicy.
Q Her name was Dicy Whitmire before she was sold by Whitmire?
A Yes sir.
Q Was her name Dicy Whitmire or Dicy Shepherd? A They always went by the name of their master.

MR. HASTINGS:

Q When is your birthday? A I think it was about '43, but I ain't right sure about it.
Q You have never had a birthday since? A No sir.
Q You didn't have one last year? A Yes, my birthday comes around, I guess.
Q When was it? A In August of '43, I think it was.
Q But you are about 60 years old? A Yes sir.
Q Do you remember about the year that Dicy, the mother of Martha, was sold to Dillingham? A It was two or three years before the war.
Q Who else was sold at the time Dicy was sold to Dilingham? A There were two or three children.
Q What were their names? A One of them was called Martha.
Q Where did you live at the time? A Right up above Whitmire's up in Going Snake District.
Q Watt Whitmire lived there with his father didn't he? A If he did he was very young.
Q You say it was only three or four years before the war? A Well I don't know his age.
Q Who did you get a letter from about a week ago to hunt up testimony in this case? A I didn't get one from anybody.

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Q Did you ever get one from anybody with reference to hunting up test imony in thiscase? A I saw Mr. Rogers.
Q What Mr. Rogers? A That man over there behing Mr. Neal.
Q What interest did he have in the case? A I couldn't tell you. He just asked me to go over there and see if I could find anybody that knew these people.
Q Who did you go to to ask? A Mrs. Susie Walkingstick.
Q What interest did you have in going around over the neighborhood asking people if they knew about the pople in this case? A They had asked me to do it as a favor
Q Didyou have ay interest in the case? A No sir.
Q How many slaves did Johnson Whitmire have when the war came up?
A I don't know---- several.
Q Let's have the names of some of them? A One was called Dicy, one Nancy, Emma, Rachel. I believe thatis all I know the names of. There were several more, but I don't remember their names.
Q How far did Jack Alberty live from Johnson Whitmire? A About 8 miles.
Q How far did Jeff Tik-nee-sky live from Johnson Whitmire? A About three or four miles.
Q Do you swear that Johnson Whitmire owned this slave and her mother when the war came up? A Of course he owned them.
Q You will swear that? A Of course I will.
Q And he owned her mother at that time? A Yes sir.
Q Was she very old? A Not very.
Q Did she have any more children? A I don't know. I wasn't that well acquainted with her. I was over there a good deal, but I didn't know about her business.
Q Don't you know whether she had any other children besides this Martha? A I don't know.
Q Didn't she have one elder than Martha? A I don't know.
Q And didn't she have two younger than Martha? A I don't know
Q But you knew Nancy and Martha? A Yes sir, but I met them out on Red River after peace was made, and that is how I knowed so much about them.
Q You didn't know that she had a brother or any sisters? A She had some brothers I guess.
Q What were their names? A One went by the name of Nelson, one was Aaron, and one was Lewis.
Q Who did they belong to? A I think they were kinder in partnership between Johnson Whitmire and George Whitmire.
Q Did you know the father of Johnson and George Whitmire? A No sir.
Q He died long before the war, didn't he? A I guess so. I never knew him at all.
Q Whom did Dillingham get Dicy? A I don't know about that.
Q Who took this applicant and her mother south? A Cornelius Wright.
Q Is that Cale Wright's father? A Yes sir.
Q When Cale Wright would know about that? A I guess he would.
Q How do you know they went south with Cornelius Wright? A They told me so.
Q How old was this applicant when the war came up? A I could not tell you. I was about 15 years old, and she wasn't as large as me.
Q Was she five years old? A I don't know.
Q Was she three? A I don't know.
Q Was she two? A I have no idea about her age.
Q Do you mean to tell this Commission under oath that you know this particular girl and yet can't tell whether she was 1 or two years of age? A She was over two.

Q What is your best judgment if you are going to tell the truth?
A I guess she was 13 or 14 years old.
Q You say she went south with Cornelius Wright? A Yes sir.
Q Did Cale go with his father? A I don't know whether he did or not.
Q Weren't you in the neighborhood? A No sir, I was a soldier
Q Who was the reputed father of this applicant? A I never knew him.
Q Did you everknow of a free nigger by the name of Charley Bowland? A No sir.
Q He didn't live around there? A He might have, but I didn't know him.
Q He didn't go over with Dillingham? A I don't know.
Q You would have known it if he had? A I might not have seen them when they left, but just heard of it.
Q You know that Dicey went off with Dillingham? A Yes sir.
Q And she had a child by the name of Martha? A Yes sir.
Q And you swear that this Nancy and her child Martha were living there with Johnson Whitmire in Going Snake District when the war came up? A Yes sir.
Q And yet, you do not know how old she was? A I guess she was 13 or 14 years old.
Q How long waswit immediately before the war that you saw this child at Johnson Whitmire's? A I was around there several times, and I don't know just when was the last time.
Q When was the last time you were at Johnson Whitmire's before the war? A I couldn't tell you that.
Q You must tell us what isyour best judgment. You are under oath now? A In those days I didn't keep any account of my whereabouts. I was a young man, and didn't keep no account.
Q Were you in the country when the war came up? A Yes sir.
Q How long before the war came up was it that you were at Johnson Whitmire's? A Just a short time.
Q How long before the war was it that you saw Nancy at Johnson Whitmire's? A I couldn't tell you.
Q Wasit ten years? A It might have been.
Q It might have been 15 years? A It might have been.
Q You are not going to be positive on that point? A No sir.
Q It might have been as much as four or five years before the war that you last saw Nancy and this child at Johnson Whitmire's?
A It might have been a year or six months.
Q When were you at Jeff Tik-nee-sky's you didn't know anything about these people? A Yes I did.
Q Did you tell him that you knew them -- that you knew this applicant's mother? A Yes sir.
Q Did you tell Jeff what you hadtold on this stand? A I told him that I knew of one being named Nancy, and I told him the other one, I told him of the one that Dillingham took out--that that one was called Dicy and her daughter was called Martha.

MR. HALL:

Q Didyou go into the army when the war first broke out? A Yes sir.
Q Were you serving there until you went off to soldiering? A Yes sir.
Q That you were in that neighborhood until the war broke out?
A Yes sir.
Q In your cross examination you told her that you would be now from 13 or 14 years of six months that you lived at this two mile of Johnson Whitmire and didn't go back there. Do you mean that you lived there that long and didn't go about his

place? A Yes sir.
Q Then you don't know whether you stayed there five years before the war or not? A No, I couldn't tell you how long it was. I was over there now and then.
Q Every four or five years or what? A Maybe every two or three weeks.
Q Were you over there every two or three weeks before the war broke out? A Yes sir, maybe it would be a month.
Q Do you mean to say that before the war broke out you were over there every three or four weeks or every four or five years?
A It was a short time.
Q Were you over there every week or two or every year or two?
A Every week or two.
Q When you said you didn't know how long it was, you meant that you didn't know how many days it was before you went to the army? A Yes, sir.
Q Did you see anyw within a month or six weeks befor you went away? A Yes sir, I think so. It has been a long time ago and a man can't remember all of these things. Lots of things have slipped my memory.

MR. HASTINGS:

Q Wasn't Watt Whitmire, being a son of Johnson Whitmire, in a little better position to know what slaves his father had than you were? A I guess he would. He knew them better than I would for he was with them every day.

COMMISSION:

Q When were you last at Johnson Whitmire's before the war broke out? A I couldn't tell you exactly.
Q What isyour best judgment? A It might have been two or three weeks or a month.
Q Was it within a short time before the war broke out? A Yes sir.
Q Do you state now as a positive fact that when you were there the last time, that you saw this applicant there? A Yes sir.
Q The last time you were at Johnson Whitmire's before the war she was there. Do you state that as a fact, now? A Yes sir, she was there, but she was never taken out of there.
Q Well, she was there or else she was not? A Yes sir, she was there, but shenever was sold out.
Q Were any of the other slaves there? A Yes sir.
Q How often have you seen this witness since the war? A Just one time — then I saw her yesterday or the day before. I saw her out on Red River before '65.
Q Since '65 up to a couple of days ago you haven't seen her at all
A No sir.

(Witness identifies his signature attached to an affidavit which is shown him).

Q Are you willing to swear now, Mr. Alberty, that this woman, whom you haven't seen for 40 years is the same woman that you saw at Johnson Whitmire's just before the war? A Yes sir, I saw her out on Red River in '65, and she is the same one.
Q And you haven't seen her since until a few days ago? A No sir, I haven't.
Q In January of this year was your attention drawn to the fact

about one Martha Albert --- about four months ago? A Not that I know of.

Q Do you remember this paper that I showed you a while ago?
A Yes sir.
Q Did you read that paper before you signed it? A Yes sir,
Q Four months ago you swore before Mr. Rogers, a Notary Public, that you had known this woman all her life time, and now you state that from the time you saw her down on Red River in '65 until a few days ago you didn't see her at all? A I couldn't see her all the time.
Q It is a fact that you had not seen her since '65 until a few days ago? A Yes sir, I hadn't.
Q Prior to that time you had signed this affidavit, hadn't you?
A Yes sir.

(Reference is made to an affidavit signed by the witness in the case of this applicant, signed on January 10, 1905, before H. L. Rogers, Notary Public, and which is a part of the petition for a rehearing, addressed to the Department of the Interior and to the Honorable Commissioner of Indian Affairs).

MR. NEAL:

I have one other witness, Martha Williams, who is the Martha that was sold by Johnson Whitmire to Dillingham. She lives at Marlton, and we sent a man down after her, and this morning I got a message stating that she is sick, and that a doctor's certificate has been procured. As soon as she is able to travel I would like to bring her up here and take her testimony. The testimony of this witness is important, because she is the Martha that belonged to Johnson Whitmire and who was sold out to Dillingham.

WITNESS EXCUSED.

Martha Albert recalled for additional cross examination.

MR. HASTINGS:

Q What is your name? A Martha Albert now.
Q What was your father's name? A Charley Bowland.
Q What was your mother's name? A Nancy, but she was called mannie when she was young.
Q How old are you? A I think I am about 60 years old, but I don't know exactly. I am not educated, and can't tell my age exactly.
Q Were you married before the war? A No sir, I was just a little girl.
Q Were you married during the war? A About the last year of the war.
Q Where? A On Red River.
Q Who did you go south to Red River with? A With Cornelius Wright's daughters.
Q Who took them? A Cornelius Wright took them, and there was another lot went along. We all went together, but I was so small that I didn't pay much attention.
Q Did you know any of Cornelius Wright's folks? A Yes sir, I knowed Alf Wright, and aunt Minnie, and aunt Dorman.
Q Did Cornelius Wright have any children? A Yes sir,
Q What were their names? A I can't tell you, for it has been a long time ago, and I don't remember their names.

Q You can't recall the name of any one he had when the war came up? A I can remember them but I can't remember their names.
Q You can't remember the names of any of them that went South with you? A No sir.
Q Where did Cornelius Wright live when the war came up, and about when you started south? A On the other side of Barren Fork
Q On which side of Barren Fork was that? A On the north side.
Q How far from Barren Fork? A I didn't go out there and measure it, Mr. Hastings. I was too young.
Q What was Cornelius Wright's wife's name? A Her name was Samah, I think.
Q Was she living when the war came up? A It seems to me like s she was dead.
Q How long had she been dead when the war came up? A You must recollect that I was a child and don't remember lots of things. You must give me a chance the same as anybody else. You folks didn't give us niggers no education so we could know and remember things like that.
Q About how long before the war did Sarah Wright die? A I don't know.
Q Will you swear that she didn't go south with Cornelius Wright?
A I don'tknow.
Q You are sure her name was Sarah? A I said I thought it was. What did us niggers know about that. All we could call them was Mistress, and most always that was all we knowed about their names.
Q What was Cornelius Wright's childrens names that went south?
A I don't know.
Q You didn't have to call them Master and Mistress did you? A Some times we did, and then is has been so long ago that I have raised a family myself since them.
Q What was Johnson Whitmire's wife's name? A She was named Temple.
Q Was she the wife that was living with him when the war came up?
A I think she was, but I wouldn't be positive.
Q You was their slave? A Yes sir, and he had plenty of slaves besides me.
Q How many children did Johnson Whitmire and his wife, Temple, have? A I will tell you the truth, and I wouldn't swear a lit to get on this roll. I don't know their names -- none but one. I knowed Watt, and that is the only one.
Q You knew him because you heard he call his name, and because he was a witness against you in this case. How old was Watt when the war came up? A He was a good sized boy, but I was the largest.
Q If you were a child with them and Johnson Whitmire had some more children, why don't you remember their names? A I just told you about that. If you had been raised up a slave in the backwoods like as you would not know your playmates' names.
Q The truth of the business is, you weren't there? A Yes sir, I was right there.
Q Did he have a brother named George Whitmire? A Yes sir.
Q What children did George Whitmire have? A He didn't live right there.
Q How far did he live from Johnson Whitmire? A I don't know. I know he lived in the country somewhere.
Q About how far? A I don't know.
Q You never were at George Whitmire's? A I belonged to Johnson Whitmire.
Q You never were at George Whitmire's? A No sir.

Q You don't know whether he had any children or not? A I think he did.
Q You don't know any of Johnson's children but Watt, and you did not know him until he testified against you? A Yes sir, I knowed him before.
Q But you never know any of the rest of them did you? A I don't know.
Q Where did Johnson Whitmire live when the war come up? A He lived up in Going Snake District.
Q Near what town? A Tahlequah.
Q About how far from Tahlequah? A I don't know.
Q Your best judgment? A I didn't have no judgment about it.
Q You weren't there, were you? A I was born and raised right there on the old Whitmire place.
Q How far is it from Tahlequah? A I don't know.
Q Was it as much as two miles? A I never have measured it.
Q Was it a mile and a half -- what is your best judgment? A It might have been a mile and half or five miles.
Q Is five miles your best judgment? A My best judgment is that I don't know.
Q Is five miles your best judgment? A I don't know how far it was.
Q On what side of Barren Fork did he live? A On the north side.
Q How far did he live from the creek? A I don't know that. He didn't live so powerful fur, though.
Q Was it five miles? A No, I don't think it was that fur.
Q Right when the war come uphow far did Johnson Whitmire live from Barren Fork? A I guess his old house is sitting there right now, on the north side of Barren Fork.
Q How far from the creek? A I couldn't answer lessen I knew.
Q I want to know whether it was a short distance, or how far?
A If I had been a young woman I might have been able to tell you.
Q How old were you? A I must have been about 4 or 5 years old.
Q And yet, you were married the last year of the war? A I was 15 or 16 years old when I married.
Q What became of your mother? A She died.
Q Where did she die? A Down in Sequoyah.
Q Did your father go south with you? A He didn't go with us but he come.
Q You remember seeing him around Johnson Wright's before you went?
A Yes sir, but his home was on Pea Vine.
Q What kind of a house did Johnson Whitmire live in? A I think it was a big log house.
Q Are you certain about that? A No sir, I won't be certain.
Q Did he live on thehill or in the valley? A On the side of the hill.
Q And you were four or five years old? A I suppose I was about that old.
Q You were born in '43 and left in '47? A I don't know. You ask me too tight questions. If I was said I would say so.
Q How many slaves did Johnson Whitmire have? Or I mean, when the war come up? A He had old aunt Temptie, Artie, Moses, Celia, Mary, Mandy and me.
Q Did Celia have any children? A No sir.
Q Did Temptie? A She had two.
Q Were they older or younger than you? A Older.
Q Did they have any about your age? A No sir.
Q Did Mary have any children? A Yes sir.
Q What were their names? A One was named Rose and one was named Tom.

Q You don't know how far from Barren Fork Johnson Whitmire lived, though? A No sir.
Q You didn't know any of his children but Watt? A I did know them, but I have forgot their names.
Q You didn't know any of Cornelius Wright's children's names?
A No sir.
Q You do not know the names of any of George Whitmire's children?
A No sir, we didn't belong to George.

COMMISSION:

Q You have some children, haven't you, that you applied for? A Yes sir.
Q Elijah and Ida are two of them? A Yes sir.
Q Who is the father of these children? A Cally Albert.
Q He was a state man wasn't he? A Yes sir. Old man Buckyhead raised him, but he didn't belong to him.
Q How many times have you been married? A Just the one time.
Q What was your husband's name? A Cally Albert.
Q He doesn't claim any rights as a Cherokee Freedman? A No sir
Q You have a child called Henry? A Yes sir.
Q Has he got some children? A Yes sir.
Q What are their names? A Harry, Raymond, and Louie.
Q Who is themother of these children? A Florence.
Q She is a state woman? A Yes sir.
Q She doesn't claim any rights as a Cherokee freedman? A No sir.
Q You have a girl called Lillie White? A Yes sir.
Q She has some children? A Yes sir.
Q Who was the father of these children? A Henry White.
Q He is a state man? A Yes sir.
Q Have you a child called Nancy Belkam? A Yes sir.
Q Has she any children? A Yes sir.
Q Their father doesn't claim any rights as a Cherokee freedman?
A No sir.
Q Have you a daughter named Malinda? A Yes sir.
Q Has she any children? A Yes sir, six.
Q Does the father of those children claim any rights as a Cherokee freedman? A No sir.
Q Are they all living? A Malinda is dead, but her children are all living.
Q What relation is Jamie Barnes to you? A She is my sister.
Q A full sister? A Yes sir.
Q Did you have the same father andmother? A Yes sir.
Q Is Robert Barnes jamie Barnes' son? A Yes sir.
Q The father of Robert was a state man? A Yes sir.
Q Jamie Barnes had a daughter called Lula Knalls? A Yes sir.
Q And she has two children? A Yes sir.
Q What are their names? A Sarah French and Fred E. Knalls.
Q Was the father of Sarah French a state man? A Yes sir.
Q What about the father of Fred? A He was a state man.
Q Who was the father of R-430? A He was a state man, too.
Q He is dead isn't he? A Yes sir.
Q John Barnes is a son of jamie Barnes, too? A Yes sir.
Q His father was a state man? A Yes sir.
Q The mother of Susie and John is a state woman? A Yes sir.
Q Sarah Brown has got a child called Maggie Williams? A Yes sir.
Q What is is father's name? A Marcus Williams.
Q He is a state man? A Yes sir.
Q Jamie Barnes had a daughter named Maggie, and Maggie had a son named George L. Bell. Who was the father of this child? A George Smith, or Bell.
Q Is he a state man? A No sir.

Q He was denied as a Cherokee freedman? A Yes sir.

WITNESS EXCUSED.

Witnesses for the nation.

Watt Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Watt Whitmire.
Q What is your post office? A Westville.
Q What is your age? A 53.
Q Are you a Cherokee by blood? A Yes sir.
Q What was your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte.
Q Was your mother living when the war came up? A No sir.
Q How long had she died before the war? A I don't recollect. I was just an infant when she died. I think she died about ten years before the war.
Q Had your father remarried when the war came up? A Yes sir.
Q What was his wife's name then? A Tempie.
Q Did you have any brothers and sisters living when the war came up? A Yes sir, I had one full brother by the name of William, older than me, and then I had some half brothers, named George and Willis, and a sister named Charlotte.
Q Do you know this applicant that goes by the name of Martha Albert? A If I ever saw her before I don't know it.
Q Did your father own some colored people when the war came up?
A Yes sir.
Q Did he own one called Nancy when the war came up? A No sir.
Q Did your father own this colored applicant, who claims that she is the daughter of Nancy, when the war came up? A There was no Nancy on the place.
Q Did your father own this applicant? A No sir, she wasn't on the place.
Q Were you living with your father when the war came up? A Yes sir.
Q How far were you living from Barren Fork? A Right at two miles.
Q On which side of the creek? A South side.
Q Did you ever live on the north side of Barren Fork? A No sir.
Q Do you know one, Andy Alberty, whose post office is Stilwell?
A Yes sir.
Q He has just testified upon the stand that your father owned a nigger slave by the name of Nancy and this applicant, who was the child of Nancy when the war came up. Was that true? A No sir, he never owned no woman by the name of Nancy.
Q How far did Andy Alberty live from your father when the war came up? A As near as I can guess it, it was 7 or 8 miles.
Q What kind of a house did your father live in? A A double log house.
Q You say your own mother was dead? A Yes sir.
Q Was your stepmother living when the war came up? A Yes sir.
Q What became of your father's slaves? A When father went south we left the women folks all at home. The men had all gone north before we left home. Me and my brother, George, were the last ones to leave the place, and we left all the women folks on the place, and after we left they all went north.

Q None that you owned went south? A Not one.
Q Where did you go during the war? A Down on Red River on the Choctaw side.
Q Did you know Cornelius Wright? A Yes sir.
Q Did you know his son, Cale? A Yes sir.
Q How far did they live from you? A Some five or six miles.
Q On what side of Barren Fork? A On the southeast side from us.
Q Did you see them down on Red River during the war? A Yes sir.
Q Did they have some slaves down there? A Yes sir.
Q Did they have a woman by the name of Nancy? A If they did I don't know it.
Q Did you ever see this applicant down there? A No sir.
Q Did you ever see her anywhere before? A No sir, this is the first time I ever saw her.
Q How long were you all and Cornelius Wright's people together in the Choctaw nation? A I don't know. We moved away and left them there. We moved there in the early fall and left early the next spring, and we left Cornelius Wright's folks living there.
Q They were related to you? A Yes sir.
Q You know that Cornelius Wright didn't have any slave of your father's by the name of Nancy down there? A No sir.
Q Did you ever know the alleged father of this applicant who she said went by the name of Charley Rowland? A No sir.
Q Was he in your neighborhood before the war? A I never heard of him.
Q Did you see him down on Red River during the war? A No sir.

MR. NEAL:

Q You say you and your brother went off and left the women folks there? A Yes sir.
Q You mean the slaves? A Yes sir.
Q You also said that they all went north? A Yes sir.
Q Do you know where they went? A I don't know only what they told me. After the war they told me they went to Fort Scott. One of them told me that.
Q You don't know, of your own personal knolwedge, where they went?
A No sir, I just have their word.
Q You say that one of the men told you? A Yes sir, Dick and Moses both told me that the women folks were all in Fort Scott.
Q You said the men folks all went north? A Yes sir, they went north first -- before we left.
Q All you know about where the women folks went is what Dick and Moses told you, and they left before you did? A Yes sir.
Q You say your father didn't own any slave by the name of Nancy?
A No sir.
Q Did he own one by the name of Annie? A Yes sir, there was a little girl by the name of Mennie.
Q How old do you say you are? A 53.
Q That would make you how old when the war broke out? A Between 9 and 10.
Q You were acquainted with all of your father's slaves, were you?
A Yes sir.
Q Knew all of the children? A Yes sir.
Q How many children did Rachel have? A 3 or 4--I don't know just exactly whether it was 3 or 4.
Q How many children did Sookie have? A There was Charlotte, Lisa, Ibby, and Mary.
Q There was a slave there named Frank? A Yes sir, but I have forget which woman was her mother.

Q How many children did Fronie have? A One.
Q Of your knowledge, you don't know where your father's slaves went? A Not only what they told me. They told me they went north.
Q You never have seen any of the women folks since then? A Not since the war.
Q You don't know where they are now, do you? A Not for certain. I never have [illegible] been right to their houses.
Q You never have spoken to one of the negro women that belonged to your father, since the war? A No sir.
Q The only slaves of of your father's that you have seen are Mose and Dick? A Yes sir.
Q How many slaves did your father have when the war broke out?
A I would have to count them up.
Q About how many? A I guess there were 18 or 20, children and all.
Q You have named four children of Rachel's ---A As well as I recollect, I said there were that many.
Q Five of Sookie's? A Yes sir.
Q And one of Fronie's? A Yes sir.
Q How many more children were there? A There was one, by the name of Charlotte that had one or two children I think.
Q Do you think that, being only 9 or 10 years old, you would recognize a woman 55 or 60 years old who was a girl at the outbreak of the war? A I guess not.
Q Then you don't know anything about Martha Albert-- anything about who she is, or anything about her? A No sir.
Q If she belonged to your father you don't know it? A No sir.

MR. HASTINGS:

Q You know your father didn't have a grown woman, with children, by the name of Nancy when the war came up? A No sir, he didn't.

COMMISSION:

Q You have testified in this case once before? A Yes sir.
Q Are you the Watt Whitmire that testified at Fort Gibson in 1901?
A Yes sir.
Q Do you know this man, Dillingham? A No sir, I have heard of him frequently.
Q Did he live in your neighborhood? A I think not? I have heard my father speak of him.
Q You do not know how near he lived to your home, do you? A No sir, I know the place they say he lived on.
Q You know this Andy Alberty that testified here awhile ago? A Yes sir.
Q Did you know him before the war? A No sir.
Q When was the first time you ever knew him? A Since the war I got acquainted with him.
Q You don't know whether he was in the habit of visiting your father's house or not? A No sir.
Q Your mother's name was Lottie? A Charlotte.
Q You belonged to the second marriage? A No, the first.

MR. NEAL:

Q How long before the war was it that your father married Tempie?
A I don't recollect just when it was. I was a boy up and running around, I guess two or three or four years old. It was anyway three or four years before the war.
Q You were about 9 or 10 when the war broke out? A Yes sir.

MR. HASTINGS:

Q Was there any other Johnson Whitmire living around there before the war? A No sir.

COMMISSION:

Q Do you know what year it was that you went to Red River? A No sir, I don't.
Q What isyour best judgment as to what year it was? A It would have to be a round about guess? A I guess it was the second year of the war.
Q Do you remember distinctly about going to the Choctaw Nation? A Yes sir.
Q You remember the trip down there, and the people you met down there? A Yes sir.

WITNESS EXCUSED.

Cale, Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Cale Wright.
Q Where do you live? A Tahlequah.
Q How old are you? A I am 59.
Q What was your father's name? A Cornelius Wright.
Q Were you living with your father when the war came up? A Yes sir.
Q Where? A About 3 or 4 miles west of Dutch Mills, on the Cherokee side.
Q What District? A Going Snake.
Q How far from Barren Fork? A About two and a half miles, I guess.
Q Where did your father go during the war? A South.
Q Did you go with him? A I didn't exactly start with him, but I got with him at Fort Smith when he was on the way.
Q Did you continue on the trip with him? A Yes sir.
Q Did you continue on the trip with him? A Yes sir.
Q Where did you go to? A The first place we stopped at was Armstrong's Academy in the Choctaw Nation, then we moved from there down to 10 miles south of Doaksville, near Red River.
Q Do you know this applicant, Martha Albert? A No.
Q She has testified that she and her mother, Nancy went south with your father during the war, and that her mother, Nancy, belonged to Johnson Whitmire, as well as herself, at the beginning of the war? Is that true? Did a Nancy Whitmire, who had one or two children, go south with your father? A They were not with him when I came up with him.
Q Did they have a Nancy Whitmire anywhere on that trip? A No sir.
Q Were you ever about Johnson Whitmire's place before the war? A Yes sir, I boarded there and went to school two sessions.
Q And you lived in his neighborhood? A Yes sir, within five miles.
Q Did Johnson Whitmire have some slaves? A Yes sir.
Q Did he have a slave by the name of Nancy who had some children when the war came up? A No sir. I never heard of that name while I was there going to school.
Q You live in the same neighborhood? A Yes sir.
Q You were related to Johnson Whitmire? A I suppose we were distantly related, but I don't know just how much.
Q You do not know that degree of relationship? A No sir.

Q Did you ever see this applicant down south after the war or during the war? A I am just looking at her. Let me talk to her some, and see.
Q Are you satisfied from the conversation that you have had with her, that she was with your father down south? A No, she could not have been.
Q Did you know this Andy Alberty? A Yes sir.
Q How far did he live from Johnson Whitmire before the war? A It must have been 8 miles, across the mountain.
Q You swear positively that your father did not have a woman by the name of Nancy, and her child, that belonged to Johnson Whitmire, down on Red River during the war? A No sir.

Applicant to witness--- Was Arthur with you? A No.
Q Was Rose? A Yes, there was a Rose -- Lucindy's daughter.
Q Was Jinnie with you? A Jinnie died in '61.

MR. HASTINGS:

Q You know that no Nancy Whitmire went south with your father?
A No sir.

MR. NEAL:

Q You said just now that you judge from your conversation with the applicant, that she could not have been with your father down there? A No sir, she couldn't.
Q The reason that you say she was not with your father is because she desn't seem to know enough about the people? A That is it.
Q Upon that you base your judgment? A Yes sir.
Q There were a good many slaves that went with your father down there? A Yes sir, several.
Q Did any of the Whitmire niggers go with your father? A No. The Whitmires went out there themselves and we all went to ourselves, and at last we all got into the same neighborhood before we started back.
Q You didn't go out of the Territory at all? A No, we stepped on the north side of the river in the Chectaw Nation.
Q You say that you boarded at Johnson Whitmire's and went to school, and you say he had no slave named Nancy-- name some of his slaves --- A You call them off.
Q I want you to call them off? A He had Hannah, Myra, Frenie, Rachel, Ibby, Mary, and there might have been some young ones, but these are the older ones.
Q Didn't he have one named Jane? A Not that I know of.
Q Didn't he have one named Mattie? A No.
Q Didn't he have one named Nannie? A Well, I don't know, but if he did she must have been right small.
Q Didn't he have one named Sookie? A Yes, there was one named Sookie.
Q Do you know the names of any of the men? A Yes, there was Dick, Mose, Mike, Frank, and Mark.
Q What was Johnson Whitmire's wife's name when the war came up?
A Her name was Tempie.
Q Were you acquainted with his first wife? A No, she was dead long before I could remember her.
Q How old were you when you boarded there? A It was along in '50. I was a good big chap.
Q You remember the names of all of these slaves by having boarded there? A Yes sir.
Q How far did you live from there? A About 8 miles, I reckon. In our country we had what we called bridle ways that were nearer, but it was about 8 miles around.

MR. HASTINGS:

Q. Did you mean in the year '50 or between '50 and '60? A. Yes sir, that is it-- between '50 and '60.
Q. About how long before the war? A. I couldn't tell that. The was broke out in '61, and it must have been three or four years before the war.
Q. Were you there frequently besides boarding there? A. Yes Sir.

MR. NEAL:

Q. You said when you were south of the Red River that the Whitmire folks got into the same neighborhood? A. Yes sir.
Q. And some of the slaves were there? A. Yes sir.
Q. Old man Johnsen Whitmire didn't carry out any slaves? A. I think George had a slave or two.
Q. You say that none of Johnson'Whitmire's slaves were there? A. No, they all went north.

COMMISSION:

Q. Have you ever seen this woman before, to your knowledge? A. No sir, I don't know anything about her.
Q. How far do you live from Melvin? A. I live up to Tahlequah, and I don't know just how far it is.
Q. Do you know any of these applicants?--- any of this woman's children? A. No sir.

WITNESS EXCUSED.

J. W. Alberty, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. J. W. Alberty.
Q. What is your post office? A. Westville.
Q. How old are you? A. Well sir, I will be 71 years old the 26th day of July.
Q. This is the case of Martha Albert, in which you have given testimony before? A. Yes sir.
Q. You know Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. Six or seven miles.
Q. You testified about the sale of some slaves to a man by the name of Dillingham? A. Yes sir.
Q. About when did he sell them to Dillingham? A. It was either in '47 or '48.
Q. Do you know this applicant here? A. No sir.
Q. She has testified that her mother was named Nancy and that her father was named Charley Bowland. Did you know the Nancy, the alleged wife of Charley Bowland? A. Yes sir.
Q. Who did she belong to? A. Old man Dillingham moved to Texas and took this family with him.
Q. To whom did she previously belong? A. To Johnson Whitmire.
Q. And Dillingham acquired her from Johnson Whitmire in the year of 1847 or 1848? A. Yes sir.
Q. Are you certain that her name was Nancy? A. Yes sir.
Q. What became of Charley Bowland? A. He went with Dillingham.
Q. Do you know whether Nancy had some children? A. She had two or three.
Q. You don't know whether this applicant was one of them or not? A. No sir.

Q. Did Johnson Whitmire have a grown slave by the name of Nancy when the war came up? A. No sir, not that I know of.
Q. You were familiar with him? A. Yes sir.
Q. Are you prepared to say that Charley Rowland was not in that country when the war came up? A. Yes sir.
Q. Do you know Andy Alberty? A. Yes sir.
Q. Is he a relative of yours? A. Yes sir.
Q. Where did he live before the war? A. He lived right close to Oak Grove school house.
Q. How far from Johnson Whitmire's? A. Between 7 and 8 miles.
Q. Then Nancy, the wife of Charley Rowland, was taken south? A. Yes sir.
Q. What was the citizenship of Dillingham? A. He wasn't no citizen at all, he was just a white man.
Q. Well, he was a United States citizen? A. Yes sir.
Q. Where did he live in '49 or '50? A. Before he went to Texas he lived in Arkansas.

MR. NEAL:

Q. You lived closer to Dillingham than you did to Johnson Whitmire didn't you? A. Yes sir.
Q. You were better acquainted with Dillingham's slaves that you were with Johnson Whitmire's? A. Yes sir.
Q. You know more about this woman after Dillingham bought her than you did when she belonged to Johnson Whitmire? A. Yes sir.

WITNESS EXCUSED.

Jeff Catcher (Tik-nee-sky), being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Jeff Catcher.
Q. What is your post office? A. Stilwell.
Q. How old are you? A. I was 65 the 15th day of last month.
Q. Are you a Cherokee citizen? A. Yes sir.
Q. You are also known as Jeff Tik-nee-sky? A. Yes sir, that is my Cherokee name.
Q. Where did you live before the war? A. In Going Snake District, on Pea Vine.
Q. Close to where you live now? A. About 300 yards west of where I live now.
Q. Did you know Johnson Whitmire before the war? A. Yes sir.
Q. How far did you live from him? A. It was about three quarters of a mile, I reckon, maybe a leetle over.
Q. Were you a soldier in the army? A. Yes sir.
Q. You were about grown when the war came up? A. Yes sir.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman slave by the name of Nancy, who had some children, when the war came up? A. No sir, I don't recollect one by that name.
Q. Were you frequently at his house? A. Pretty near all the time. Once a week, anyhow, I was there pretty much all the time.
Q. Do you know this applicant, she gives her name as Martha Albert? A. No sir.
Q. Did you ever see her before? A. No sir.
Q. Did you know a white man that lived across the line by the name of Dillingham before the war? A. No, I never saw him, but I

have heard him talked of a good deal.

Q. You were too small to remember him? A. Yes sir, but I have heard of him.

Q. You don't know whether he bought some slaves of Johnson Whitmire or not? A. I don't know. He didn't after I got big enough to recollect.

Q. Did Johnson Whitmire, when the war came up, have a woman by the name of Nancy? A. No sir.

Q. What army were you in? A. The Federal army.

Q. Do you know Andy Alberty? He just testified here awhile ago? A. Yes sir.

Q. How far did he live from Johnson Whitmire? A. Between 7 and 8 miles.

Q. Did you know a free colored man in that country by the name of Charley Rowland? A. I have heard of him, but I don't recollect him.

Q. He wasn't there just before the war? A. No sir.

MR. NEAL:

Q. You say that you don't remember a woman named Nancy that belonged to Johnson Whitmire? A. No sir.

Q. You don't mean to say that he didn't have one by that name, but that you just don't remember her? A. If he had one it must have been a small child, for I know all the old ones. I think I can name all the old ones.

Q. Name them? A. The old women that I knew was Myra, Em, Sookie, Hannah, Rachel, Fronie, Mary, Charlotte, and the balance were small and I don't recollect their names.

MR. HASTINGS:

Q. Was Andy Alberty ever to see you lately to see about this case? A. Yes sir, last Sunday.

Q. What did he say to you? A. He asked me if I knew of Mr. Whitmire having a woman by the name of Nancy.

Q. What did he say about it? A. He didn't say that he knew anything about it. He just wanted to find somebody that knew them.

Q. Did he say that he knew one at that time by the name of Nancy? A. He didn't say whether he did or not. He just wanted to find somebody that did know her. I told him that I didn't think Johnson Whitmire owned any nigger by that name.

Q. That is the same Andy Alberty that you saw out there in the hall who has just testified here? A. Yes sir.

MR. NEAL:

Q. As soon as Mr. Alberty told you that he wanted to get witnesses who knew this woman who did you go and tell about it? A. I told him that there was an old woman up there, Susie Walkingstick, and that if anybody would know about it she would for she was older than I was. I said, for my part, I didn't know anything about it. Afterwards, I saw him and told him that what I knew was not in his favor, but would go against him, for I was there and knew all about his niggers.

Q. You sent him around to see Susie Walkingstick, and told him that if he owned one by that name it was before you could remember? A. Yes sir.

Q. And then you chased out to see if they wanted witnesses for the Nation. A. No sir.

COMMISSION:

Q. How big a place did Johnson Whitmire have? A. About 75 acres in cultivation.
Q. About how many slaves did he have at the beginning of the war? A. He must have had 15 or 20.
Q. Was that the only place he had in the Cherokee Nation? A. Yes sir.
Q. Did he have a plantation anywhere else? A. Nothing only a cattle ranch down about Webbers Falls. He and his brother George had a ranch together. They both owned slaves.
Q. He didn't have any female niggers down at the ranch? A. no sir.
Q. You are positive that these are the only two places he had. A. Yes sir.

WITNESS EXCUSED.

Charlotte Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charlotte Wright.
Q. What is your post office? A. Christie.
Q. How old are you? A. 58.
Q. What was your maiden name? A. Whitmire.
Q. Who was your father? A. George Whitmire.
Q. What relation was he to Johnson Whitmire? A. A brother.
Q. Where did you live before the war? A. I lived on Barren Fork. West of the Barren Fork station and east of Christie.
Q. How far from where you living now? A. About a mile and a half.
Q. You have lived there all your life? A. Except when I was south during the war.
Q. Did you go south? A. Yes sir, we were gone four years.
Q. Where did you go? A. To Red River -- near Benham only we were on the Choctaw side.
Q. Did you know Cornelius Wright before the war? A. Yes sir.
Q. Did you see him down on Red River? A. Yes sir.
Q. Do you know Cale Wright? A. Yes sir.
Q. You saw these people down south during the war? A. Yes sir, we got to be neighbors down there.
Q. Did Johnson Whitmire have some slaves before the war? A. Yes sir.
Q. Do you know this applicant here? A. I don't recognize her.
Q. Did Johnson Whitmire have a grown woman slave by the name of Nancy when the war came up? A. I don't remember her.
Q. Was there a free colored man in the neighborhood, by the name of Charley Bowland, when the war came up? A. I never heard of it.
Q. This applicant gives her mother's name as Nancy and her father's name as Charley Bowland? A. I never knew them.
Q. Do you state that Johnson Whitmire had any slave by the name of Nancy, who had some children, when the war came up? A. If he did I don't know it.
Q. He was your uncle? A. Yes sir.
Q. Were you frequently at his house? A. yes sir.
Q. How far did your father live from him? A. I guess it was 5 or 6 miles.
Q. You lived in the same neighborhood? A. Yes sir.
Q. And you were frequently at your uncle's place? A. Yes sir.
Q. Would you stay any length of time? A. As long as a week.
Q. You knew his family and slaves? A. Yes sir.

Q. They never had one by the name of Nancy that you knew of? A. No sir.
Q. Did you see any slaves down south with Cornelius Wright, and among them one names Nancy who claimed to belong to your uncle Johnson before the war? A. No sir, none of his slaves went south that I knew of. They all left him.
Q. You didn't see any down there that claimed to have belonged to him? A. No sir.
Q. You do not remember to have ever seen this applicant before? A. No sir.

MR. NEAL:

Q. You have not seen any of Johnson Whitmire's female slaves since the war, have you? A. No sir.
Q. You probably wouldn't remember a girl that was 4 or 5 years old? A. I think I would recognize her. I could be mistaken, but I think I would recognize her.
Q. How old were you when the war broke out? A. I was 14 years old when we had to leave home.
Q. You say that if Johnson Whitmire had a slave by the name of Nancy, you don't know anything about it? A. No sir.
Q. You don't know that he didn't have one by that name, but you just don't know about it? A. I never saw one by that name on the place, and I don't think he had one by that name. I don't recollect anything about it, and never heard anything about it.
Q. You don't know positively that he didn't have one by that name? A. No sir, he didn't have one by that name that I knew of. He didn't have one at home, and I don't think he had any away from home. I never heard of it if he did. But I know there was no one on the place by that name.

WITNESS EXCUSED.

Charles Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q. What is your name? A. Charles Whitmire.
Q. What is your post office? A. Procter.
Q. How old are you? A. 56 I reckon.
Q. Are you younger than your sister, Mrs. Wright? A. yes sir.
Q. She was your sister? A. Yes sir, she was always recognized as my sister.
Q. You are the son of George Whitmire? A. Yes sir.
Q. Johnson Whitmire was your uncle? A. Yes sir.
Q. Do you remember Johnson Whitmire before the war? A. Yes sir.
Q. About how old were you when the war came up? A. I couldn't tell you -- 12 or 14 I guess.
Q. Were you about Johnson Whitmire's frequently? A. Yes sir, I stayed there a right smart and went to school from his house.
Q. Did Johnson Whitmire have some slaves? A. Yes sir.
Q. Did he have a grown woman slave who had some children, by the name of Nancy, when the war came up? A. Not that I remember.
Q. Well, if he had had one that was old enough to be, and was the mother of some children would you have known it? A. Yes sir, I think I knowed all of the older ones.
Q. You didn't know one by the name of Nancy? A. No sir.
Q. Do you know this applicant here? A. No sir.
Q. Did you ever see her before? A. Not that I remember.
Q. Did you ever know a free colored person by the name of Charley

Rowland in that country? A. No sir.
Q. Then, of course, you never knew his wife, Nancy? A. No sir.
Q. Did you say that you stayed at Johnson Whitmire's and went to school? A. Yes sir.
Q. Do you know Johnson Whitmire's wife and family? A. Yes sir.
Q. Is Watt one of the children? A. Yes sir.
Q. Where did you go during the war? A. I went south to Red River.
Q. Did you know Cornelius Wright? A. Yes sir.
Q. Did you see him down there? A. Yes sir.
Q. Was he Cale Wright's father? A. Yes sir.
Q. Did he carry any of Johnson Whitmire's slaves down south with him? A. No sir.
Q. It has been sworn that he took some of Johnson Whitmire's slaves and among them was this woman, Nancy, and this applicant. Is that true? A. If he did, he didn't have them when we got to where they were.
Q. You were not old enough to know a white man by the name of Dillingham, were you? A. No sir.

MR. NEAL:

Q. How old did you say you are? A. 56 if I am not mistaken.
Q. You are older than your sister? A. No sir.
Q. Who else was boarding down there and going to school? A. Nobody but me and his boy went to school. Sometimes Aunt Tempie had two sisters who stayed there and went to school.
Q. When were you there? A. I don't know.
Q. Were you there off and on for four or five years before the war? A. I don't know.
Q. Did you stay there for more than one year? A. I went from them for two or three sessions.
Q. You never happened to be there when anybody else was boarding there? A. I was there when Aunt Tempie's sisters were there. I don't remember anybody else.
Q. How many years before the war was it? A. I am not able to tell you what year it was. I stayed at home some, and then I didn't get to go to school but very little.
Q. Your cousin, Cale, boarded down there and went to school didn't he? A. I couldn't say whether he did or not. If he went to school from there when I did I don't remember it.
Q. You said that you were of the opinion that Johnson Whitmire had no slave by the name of Nancy who was old enough to have children at that time? A. No sir.
Q. If he did you don't remember it? A. No sir, I don't remember ever hearing that name called.
Q. You never knew her if she was there? A. No sir, I don't remember any of the folks on the place calling one by that name.

MR. HASTINGS:

Q. If there had been one there by that name would you have known it? A. Yes sir.

MR. NEAL:

Q. You would remember it all these years, would you? A. I don't know, but I think I would. I remember the names of all of the older ones.

COMMISSION:

Q. Where was this school? A. On Barren Fork, on Pea Vine.

Q. How far from Johnson Whitmire's? A. About a mile and a half.
Q. Who had this school? A. An old missionary lady taught the school. I don't remember her name.
Q. Was it a kind of a convent school? A. Itwas kept up by the Cherokee Nation. It was a public school.
Q. How far away was the nearest school to it? A. I couldn't say positively just how far away. I expect it was 6 miles. I wouldn't be positive, but I expect it was that far.
Q. Was Johnson Whitmire in the habit of taking boarders to attend school? A. Yes sir, and so did my father.
Q. You were convenient to the school, and the people from the neighboring vicinity sent their children over there to board and go to school? A. Yes sir.

MR. NEAL:

Q. You say your father kept boarders? A. Yes sir.
Q. How did it happen that you didn't board at home? A. My uncle had a boy, and had nobody to go to school with him, so I was sent over to go to school with this boy.
Q. How near did your father live to the school? A. About four miles, but he built a house about three quarters of a mile from the schoolhouse where he kept the teacher and boarders.

WITNESS EXCUSED.

(Mr. Neal -- I would like that the case be held open until I can introduce one other witness, the Martha Williams who was actually sold to Billingham, and if I can get her, I will bring Susie Walkingstick.

By consent and agreement, this case is continued to May 11, 1906, at 1:30 o'clock, P.M.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 27th. day of April, 1906, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

(Signed) Eula Jeanes Branson.

Subscribed and sworn to before me this 30th day of April, 1906.

(Signed) Myron Wells
Notary Public.

Mabelle Cohenbur, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she made the above and foregoing copy, and that the same is a true and complete copy of the original transcript.

Mabelle Cohenbur

Subscribed and sworn to before me this 16th day of May, 1905.

W. S. Hutchins
Notary Public.

FILED
MAY 1 6 1905
COMMISSION TO THE FIVE TRIBES

Cherokee Freedman-R-418 to 481, inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, May 11, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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Neal & London, attorneys for the applicants.

Bell, Hastings & Davenport, attorneys for the Cherokee Nation.

C O M M I S S I O N.

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On this, the 11th. day of May, this cause coming on to be heard, the applicants appear neither in person nor by attorney.

The Cherokee Nation, represented by W. W. Hastings, introduces the following testimony:

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Aaron Whitmire, being duly sworn, testified as follows on behalf of the Cherokee Nation:

MR. HASTINGS:

Q. Your name is Aaron Whitmire? A. Yes sir.
Q. You are a freedman citizen of the Cherokee Nation? A. Yes sir.
Q. How old are you? A. About 69.
Q. To whom did you belong when the war came up? A. George Whitmire.
Q. What relation was George to Johnson Whitmire? A. They were brothers.
Q. How far apart did they live? A. About four miles when the war come up.
Q. In what District? A. Going Snake.
Q. Did they use to live together? A. Yes sir, till they married.
Q. Were you familiar with Johnson Whitmire's slaves? A. Yes sir
Q. Did you ever know a slave that he had down there by the name of Nancy, who had Charley Rowland, a free colored man, for her husband? A. Yes sir.
Q. What became of Nancy? A. She was sold to a man by the name of Billingham.
Q. What was Billingham's citizenship? A. A citizen of the United States.

Q. Where did he live? A. Right on the line of -- or close to the line of Arkansas.
Q. Did this Nancy have any children? A. I think she had one, is all I recollect.
Q. What was that child's name? A. Martha.
Q. Now, I refer to the Nancy who had a husband by the name of Charley Bowland, a free colored person? A. Yes sir, and so do I
Q. About how long before the war was it that she was sold to Dillingham? A. As near as I can recollect, it must have been 8 or 10 years or more.
Q. Did Dillingham continue to live over there in Arkansas till the war came up? A. No sir.
Q. What became of him? A. He went to Texas before the war came up.
Q Aaron, it has been alleged here that Johnson Whitmire had another Martha whose mother was Dicy, and that Dicy and that Martha were sold instead of this Martha and Nancy? Did he have another woman by the name of Dicy? A. Yes sir.
Q. Did he have her when the war came up? A. No sir, she was dead.
Q. Did he sell her to Dillingham? A. No sir.
Q. When did she die? A. Before the war, and before Nancy was sold
Q. Did Dicy have any children? A. One.
Q. What was its name? A. Cinthy.
Q. What became of Cinthy? A. She was sold to a man by the name of Russell, who lived in Arkansas.
Q. About how long before the war was she sold? A. 6 or 8 years.
Q. Did Johnson Whitmire have any other Dicy? A. No sir, never did
Q. Did you ever hear of his selling a Dicy to Dillingham? A. No sir.
Q. Did you ever hear of his selling a little girl by the name of Martha, besides this one? A. No sir, this was the only Martha on the place.
Q. Did he have a Martha when the war came up? A. No sir.
Q. Did you ever see the applicant who gives her name as Martha Albert, who is the wife of Collie Albert? A. I haven't seen her since she was sold.
Q. Did Charley Bowland go to Texas? A. Yes sir.
Q. Was he in the Going Snake country when the war came up? A. No sir, I never did see him after he went to Texas.
Q. What became of Johnson Whitmire's slaves? Did any of them go to Texas? A. No sir.
Q. What became of his women slaves? A. They went north.
Q. Who took them north? A. They went off with the soldiers.
Q. How long did you remain up there at the old Whitmire place? A. Till '64.
Q. Then you went to Kansas? A. Yes sir.
Q Had all of Johnson Whitmire's slaves gone off north with the soldiers? A. All but two, and they were with me. They were two very old women -- Amy and Myra.
Q. Had Cornelius Wright gone south? A. Yes sir.
Q. He took his slaves with him? A. Yes sir.
Q. Did Johnson Whitmire have any other Nancy or Nannie other than the one he sold to Dillingham? A. Yes sir, he had a little girl called Nannie.
Q. Who was her mother? A. Sookey.
Q. What was Sookey's name? A. Smith.
Q. What was her husband's name? A. Mose Smith. He is dead.
Q. Where does she live? A. Up here on Big Creek in Tomochichee District.

COMMISSION:

Q. How many slaves did Johnson Whitmire have at the beginning of th the war? A. He had some 20 or 25.
Q. Can you give their names? A. I could name the old ones.
Q. Give me the names? A. The first old woman was Amy, Myra, Hannah, Sookey, Kizzy, Mike, Dick, Martin, Mose, Saphronie, Rachel Charlotte, Liza, Aby, Nannie, Frank. That is about all I can recollect.
Q. These are all the older ones? A. Yes sir.
Q. The younger ones you do not remember? A. I cannot recollect them.
Q. How many of these slaves do you know of that are living now, of the 15 or 16 you have just named? A. I don't know of but two that are living?
Q. Where are they? A. Up on Big Creek.
Q. What are their names? A. Nannie Smith and Frank Whitmire.
Q. Where does Frank live? A. On Big Creek.
Q. How old a man is he? A: I don't know just how old a man he is -- right at 60 I guess.
Q. Do you know Martha Williams? A. No sir.
Q. Are you positive now that at the breaking out of the war, Johnson Whitmire did not have a slave by the name of Martha? A Yes sir.
Q. Do you know whether he had a child slave by that name? A. No sir, there was not one by the name of Martha.
Q. You know that of your own knowledge? A. Yes sir.
Q. You mentioned in your testimony about a Nancy who had a daughter by the name of Martha, and that they were sold to Dillingham. Have you ever seen them since that time? A. I never have.
Q. Do you know who this applicant is -- have you seen her? A. I don't know that I would know Martha if I saw her.
Q. How far do you live from Fort Smith? A. I live away up near the Kansas line.
Q. Did you say you knew Charley Bowland? A. Well.
Q. Was he a free colored person? A. Yes sir.
Q. And you know that he married one of Johnson Whitmire's slaves named Nancy? A. Yes sir.
Q. You cannot be mistaken about that? A. No sir.

WITNESS EXCUSED.

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COMMISSION:

After the introduction of the above testimony by the Cherokee Nation, the attorneys for the applicant appeared, by their stenographer, Miss Sorenson, and filed with the Commission a motion for continuance.

MR. HASTINGS:

The attorneys for the Cherokee Nation object to the motion for continuance, filed in this case, for a number of reasons, to-wit:

FIRST: -- This case has been continued a number of times upon motion and at the request of the applicants;

SECOND: -- The motion for continuance is not sworn to;

THIRD:-- The motion for continuance does not set up what is expected to be proven by the said Martha Williams, but only states that she is an important witness, and does not set up what is

expected to be proven by her, so that the Commission can pass upon the materiality and admissability of the testimony.

FOURTH:-- The certificate of the attending physician is not sworn to.

Commission:

The motion for continuance will be taken under advisement, and the attorneys will be notified by mail.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 11th. day of May, 1905, and that the above and foregoing is a full and complete transcript of her stenigraphic notes taken in said cause on said date.

Eula Jeanes Branson,

Subscribed and sworn to before me this the 17th. day of May, 1905.

Notary Public.

A. P. MS.
D. C. L.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES,

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In the matter of the application for the enrollment of Martha Albert et al., as Cherokee freedmen; consolidating the applications of:

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|---|---|---|---|---|
| Martha Albert et al. | Cherokee Freedmen | D | 42 | R 416 |
| Robert Barnes | " | " | 98 | R 419 |
| Lula Knight et al., | " | " | 100 | R 420 |
| Nancy Berkum et al. | " | " | 101 | R 422 |
| Henry Albert et al. | " | " | 102 | R 423 |
| John Barnes et al., | " | " | 103 | R 425 |
| Jerry Albert | " | " | 104 | R 426 |
| Lillie White et al., | " | " | 108 | R 424 |
| Malinda Melain et al. | " | " | 114 | R 426 |
| Frank Gardner | " | " | 146 | R 430 |
| Fealma Barnes | " | " | 150 | R 427 |
| Sarah Brown et al. | " | " | 151 | R 428 |
| Minnie Barnes | " | " | 152 | R 429 |
| Maggie Bell et al., | " | " | 153 | R 431 |

D E C I S I O N,

THE RECORD IN THIS CASE SHOWS: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Martha Albert for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knight for herself and minor children, Sarah Frank and Fred M. Knight; by Nancy Berkum for herself and minor children, Annie and Walter Berkum; by Henry Albert for himself and minor

children, Harry and Raymond Albert, thereafter, on October 31, 1902, there was filed with the Commission an affidavit showing the birth, on June 4, 1902, of Lewey Albert, son of the applicant, Henry Albert; by John Barnes for himself and minor child, Gussie A. Barnes, thereafter, on August 20, 1902, there was filed with the Commission an affidavit showing the birth, on June 15, 1902, of John A. Barnes, son of the applicant, John Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie and Nancy White, thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on March 8, 1902, of Amos White, son of the applicant, Lille White; by Charles McLain for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain, thereafter, on September 1, 1901, there was filed with the Commission an affidavit showing the birth, on May 17, 1901, of Mattie McLain, daughter of the applicant, Malinda McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; and by George C. Bell for his wife, Maggie Bell, thereafter, on November 7, 1901, there was filed with the Commission an affidavit showing the birth, on September 18, 1901, of George L. Bell, son of the applicant, Maggie Bell.

THE RECORDS FURTHER SHOW: That on January 11, 1904, the Commission rendered its decision herein, denying said applicants, except Mattie McLain, whose rights to enrollment, through an oversight, were not considered, the right to enrollment as Cherokee freedmen, and that on June 21, 1904 (Departmental letter I.T.D. 4732-04), said decision was duly affirmed by the Department; that, thereafter, on March 25, 1905 (Departmental letter I.T.D. 1332-05), on motion of the applicants, this case was reopened by the Department, and remanded for further testimony and readjudication; and that, thereafter, on April 13, and 27, and May 11, and June 22, 1905, further proceedings in the matter of said applications were had at Muskogee, Indian Territory.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Martha Albert, claims the right to enrollment as a Cherokee freedman by virtue of her compliance with the treaty stipulations of 1866, and that all the other applicants herein claim the same right as descendants of the said Martha Albert and one Jennie Barnes, deceased, who, it is alleged, complied with said treaty stipulations of 1866.

The following points are fully established by the evidence, no attempt having been made to disprove them:

(1) That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were full sisters, and were born prior to the commencement of the rebellion.

(2) That all the other applicants herein were born since the commencement of the rebellion, are lineal descendants of the applicant, Martha Albert, and the said Jennie Barnes, deceased, and possess no rights to enrollment as Cherokee freedmen other than as such descendants.

( The records of this office fail to show that Ruth Barnes, mother of the applicants, Gussie A. and John A. Barnes, has ever made application for enrollment as a Cherokee freedman. Her mother, Millie White, and full sister, Viola White, and full brothers, Jim H. and Harry White, were originally listed for enrollment as Cherokee freedmen on Memorandum cards Nos. 10, 13, and 14, and were later transferred to Freedmen Rejected cards, Nos. 317, 320 and 321. On April 24, 1905, their applications for enrollment as Cherokee freedmen were denied by the Commission, and record forwarded to the Department.

George C. Bell, father of the minor applicant, George L. Bell, was denied enrollment as a Cherokee freedman, by the Commission, on April 20, 1904, and on May 26, 1904, -Departmental letter I.T.D. 4050-04,- the Commission's decision was approved by the Department).

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the commencement of the rebellion, but, rather, that several years prior to the commencement of said rebellion, they, together with their mother "Nancy", were sold to one Dillingham, a citizen of the United States, were removed from the Cherokee Nation, and it is further shown that they did not return to said Nation on or prior to February 11, 1867. Excepting the Wallace and Kern-Clifton Rolls, none of the applicants herein can be identified on any roll of the Cherokee Nation in the possession of this office.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 ( 30 Stat., 496), Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A.

Barnes, John A. Barnes, Jerry Gilbert, Lillie White, Hattie White, Nancy White, Anna White, Melinda McClain, Samuel McClain, Mike McClain, Christiana McClain, Theodore McClain, Turner McClain, Jeannette McClain, Hattie McClain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

_____
Commissioner

Dated at Muskogee, Indian Territory,

this _____

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Martha Albert, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

| | | |
|---|---|---|
| Martha Albert, et al., | Cherokee Freedmen | D- 42 |
| Robert Barnes, | Cherokee Freedmen | D- 99 |
| Lula Knalls, et al., | Cherokee Freedmen | D-100 |
| Nancy Berkum, et al., | Cherokee Freedmen | D-101 |
| Henry Albert, et al., | Cherokee Freedmen | D-102 |
| John Barnes, et al., | Cherokee Freedmen | D-103 |
| Jerry Albert, | Cherokee Freedmen | D-104 |
| Lillie White, et al., | Cherokee Freedmen | D-105 |
| Malinda McLain, et al., | Cherokee Freedmen | D-114 |
| Frank Gardner, | Cherokee Freedmen | D-146 |
| Joshua Barnes, | Cherokee Freedmen | D-150 |
| Sarah Brown, et al., | Cherokee Freedmen | D-151 |
| Minnie Barnes, | Cherokee Freedmen | D-152 |
| Maggie Bell, et al., | Cherokee Freedmen | D-162 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Martha Albert, for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls, for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Berkum, for herself and minor children, Annie and Walter Berkum; by Henry Albert, for himself and minor children, Harry and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes for himself and minor child, Cussie A. Barnes; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert, for himself; by Lillie White, for herself and minor children, Mattie and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Amos White; by Charles McLain, for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain; by Frank Gardner, for himself; by Joshua Barnes, for himself; by Sarah Brown, for herself and minor child, Maggie Williams; by Minnie Barnes, for herself; by George S. Bell, for his wife, Maggie Bell; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell.

The evidence shows that the applicant, Martha Albert, and her sister, Jennie Barnes, now deceased, were not slaves of Cherokee citizens or free colored persons residing in the Cherokee Nation at the commencement of the war of the rebellion. All the other applicants herein have been born since the comm nement of the rebellion and are descendants of and claim right to enrollment through either the said Martha Albert or Jennie Barnes.

None of the names of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain , Turner McLain, Jennette McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee Freedmen, should be denied under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby

(SIGNED) T. B. Mc[illegible]

(SIGNED) C. R. Breckinridge

(SIGNED) [illegible]

Muskogee, Indian Territory,

this ~~JUL 4 1900~~ JAN 11 1904

Indian Territory
Cherokee Nation.

I, A. S. McBee Attorney for the within named applicant do hereby accept service of the within notice to take testimony this the 15th day of May 1901.

A. S. McBee

Atty for within named applicant.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 15 1901

FD. YDS

Indian Territory

Cherokee Nation

I, A. S. McRea, attorney for the within named applicant do hereby accept service of the within notice to take testimony this the 15th day of May 1901.

A. S. McRea

Atty for within named applicants.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 15 1901

F.B. 105

# NOTICE!

In the matter of the application of Lillie White et al for enrollment as a Cherokee Freedman.

Case No. D 105

To Lillie White

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on the following dates, to-wit: May 21, & 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 13. day of May 1901.

L B Bell

W W Hastings

J F Davenport

Attorneys for the Cherokee Nation.

United States of America, Indian Territory, Northern District } S. S.

I do solemnly swear that I delivered a true copy of the within notice to ..... on the ..... day of ..... A. D. 1901.

Subscribed and sworn to before me this ..... day of ..... 1901.

..... Notary Public.

jne

# M A R R I A G E  L I C E N S E

--O--

United States of America, )
INDIAN TERRITORY, ( SS. No. 1103
Northern District. )

To Any Person Authorized by Law to Solemnize Marriage---Greeting:

You are Hereby Commanded to Solemnize the Rite and publish the Banns of Matrimony between Mr. Louis Gunter of Coffeyville, in the Indian Territory, aged 25 years, and Miss Alice Bess, of Coffeyville, in the Indian Territory, aged 16 years, according to law, and do you officially sign and return this License to the parties therein named.

WITNESS my hand and official seal at Vinita, Indian Territory, this 8" day of December, A. D. 1900.

Chas. A. Davidson
Clerk of the U. S. Court.

By T. A. Chandler Deputy.
(SEAL)

---

## C E R T I F I C A T E  O F  M A R R I A G E

United States of America, )
INDIAN TERRITORY, ( SS.
Northern District. )

I, Shelton D. Brown, a Minister of the Gospel, DO HEREBY CERTIFY, that on the 12 day of Dec , A.D. 1900, I did duly and according to law as commanded in the foregoing license, solemnize the Rite and publish the Banns of Matrimony between the parties therein named.

WITNESS my hand this 12 day of December, A. D. 1900

My credentials are recorded in the office of the Clerk of the United States Court, Indian Territory, Northern District, Book------, Page------

Shelton D. Brown
A Minister of the Gospel.

---

## CERTIFICATE OF RECORD

United States of America, )
INDIAN TERRITORY, ( SS.
Northern District. )

I, CHARLES A. DAVIDSON, Clerk of the United States Court in the Northern District, Indian Territory, do hereby certify that the instrument hereto attached was filed for record in my office the 3 day of Jan 1901, at M., and duly recorded in Book J, Marriage Record, Page 479

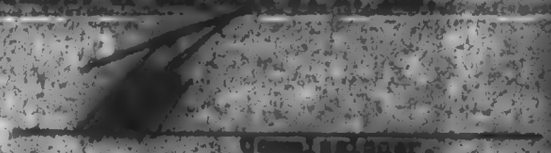
WITNESS my hand and seal of said Court at Muskogee, in said Territory this 20 day of M'ch, A. D. 1901.

Chas. A. Davidson Clerk.

By----------Deputy.

Department of the Interior,
Commission to the Five Civilized Tribes,
Muskogee, I. T., March 8, 1905.

I, the undersigned, a member of the Commission to the Five Civilized Tribes, do hereby certify that the above and foregoing is a true and correct copy of the original offered in evidence in the matter of the application for enrollment of Cherokee I. T. 188.



Commissioner.

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Lillie White,
Melvin, I.T.
Cherokee D-D-105
Registor.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

V. C. T. 2. 105

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
APR 18 1901

Acting Chairman

CHEROKEE FREEDMEN

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date APR 18 1900

Post Office Inola

District Tahl

1. Name Lotty White Age 25

Owner's name ____ Citizenship ____

Year ____ Page ____ No. ____ District ____

Parents:

Father ____ Citizenship ____

Mother ____ Citizenship ____

(1) Name of wife Lotty White Age 25

Owners name ____ Citizenship ____

Year K.C. Page 159 No. 3935 District Tahl

Parents:

Father Colly Albert Citizenship ____

Mother Nancy Albert Citizenship ____

Names of Children:

3. Martha White Year ____ Page ____ No. ____ Dist. ____

4. Nancy White Year ____ Page ____ No. ____ Dist. ____

5. ____ Year ____ Page ____ No. ____ Dist. ____

6. ____ Year ____ Page ____ No. ____ Dist. ____

7. ____ Year ____ Page ____ No. ____ Dist. ____

8. ____ Year ____ Page ____ No. ____ Dist. ____

9. ____ Year ____ Page ____ No. ____ Dist. ____

10. ____ Year ____ Page ____ No. ____ Dist. ____

11. ____ Year ____ Page ____ No. ____ Dist. ____

12. ____ Year ____ Page ____ No. ____ Dist. ____

Application made by No (1) Stenographer Van Weare

(1) & K C Rolls "Lillie Albert"

(2) Affidavit of Birth to be filed

(3) " "

Doubtful

Doubtful

FD 105

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
FILED
MAY 29 1900

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, Indian Territory, May 15th, 1901.

Received of the Commission to the Five Civilized Tribes one copy of the original testimony in the matter of the application of Lilly White et al for enrollment as Freedmen of the Cherokee Nation, one copy of the original testimony in the case of Robert Barnes, one copy of the original and one copy of the supplementary testimony in the case of Martha Albert et al ; the testimony in the case of Barnes and Albert having been made a part of the record in the case of Lilly White et al.

A S McBean

Attorney for Applicants.

Cherokee F. #D105.

COMMISSIONERS:
HENRY L. DAWES,
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BREECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING
Cherokee F-D-105

Muskogee, Indian Territory, July 8, 1903.

Lillie White,

Claremore, Indian Territory,

Dear Madam:

The Commission is in receipt of birth certificate in the matter of the application of Amos White, infant child of yourself and Henry White for enrollment as a citizen of the Cherokee Nation and the same has been duly filed.

Yours truly,

Acting Chairman.

COPY

Cherokee F. D-10

Muskogee, Indian Territory, January 11,1904.

Lillie White,

Garrison, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and your three minor children, Mattie, Nancy and Amos White, as Cherokee Freedmen. There has heretofore been furnished your attorney, A. S. McRea, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is advised of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Enc. D-59
Register.

Cherokee Freedmen
D-42, et al.

COPY.

Muskogee, Indian Territory, January 11, 1904.

A. S. McRea,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior

for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

W. W. Beadles.

Commissioner in Charge.

Enc. D-30

Register.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah Franch, Fred K. Knalls, Nancy Borkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Ames White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

The decision, with the records of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Enc. D-31.

Commissioner in Charge.

COPY.

Cherokee Freedmen.
D-43 et al.

Muskogee, Indian Territory, January 11, 1904.

The Honorable

The Secretary of the Interior,

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Martha Albert et al., including the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred M. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Ames White, Malinda McLain, Samuel McLain, Eli[illegible] McLain, Christiana McLain, Charles McLain, Turner McLain, Jennette McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

Respectfully,

T. B. Needles

Commissioner in Charge.

Through the Commissioner of Indian Affairs.

Enc. D-29.

Refer in reply to the following:

Land 1004-1904

Department of the Interior,
Office of Indian Affairs,
Washington, June 9, 1906.

In re
Application for enrollment
as Cherokee Freedman, 906

| | |
|---|---|
| Martha Albert, et al | F.D. 98 |
| Robert Barnes, | F.D. 99 |
| Lula Beadle, et al | F.D. 100 |
| Henry Berkum, et al, | F.D. 101 |
| Henry Albert et al, | F.D. 102 |
| John Bonner, et al | F.D. 103 |
| Perry Albert, | F.D. 104 |
| Lillie Tittle, et al | F.D. 105 |
| Wallace Walker, et al, | F.D. 114 |
| Frank Gardner, | F.D. 142 |
| Joshua Barnes, | F.D. 120 |
| Sarah Brown, et al | F.D. 121 |
| Minnie Barnes, | F.D. 122 |
| Maggie Bells, et al | F.D. 123 |

Consolidated

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith the record of proceedings had before the Commission to the Five Civilized Tribes in the above consolidated cases of Martha Albert et al., involving the rights of fifty-eight applicants for enrollment as Cherokee Freedmen. The Commission by its findings, dated February 21, 1906, dis-

ning the application of all the applicants in the above named cause, to be enrolled as Cherokee freedmen.

The record shows that applications for enrollment as Cherokee freedmen were made to said Commission by Martha Albert for herself and minor children, [redacted] and [redacted]Albert; by Albert Burnes for himself; by John Hanks for herself andminor children, Sarah French and Fred H. Hanks; by Henry Burnes for herself and minor children, Annie Burnes and Walter Burnes; by Henry Albert for himself and minor children, Henry Albert and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record, was filed with the Commission, showing the birth of Henry Albert, by John Burnes for himself and minor child, Minnie A. Burnes, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Burnes by Henry Albert for himself; by Lillie White for herself and minor children, Bettie White and Henry White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Annie White; by Charles Melvin Forbis wife, [redacted] and his minor children, Russell, Nile, Christine, Everlena, Vernon and Franklin Mellvin; by Frank Gardner for himself; by Frances Burnes for himself; by Sarah Brown Hollowell and minor child; Georgia Williams; by Minnie Burnes for herself; by George G. Reid for his wife Sophia

Bell, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell. Claimants base their contention for a right to be enrolled as Cherokee freedmen upon the claim made that the principal applicant Martha Albert and her sister, Jennie Barnes, now deceased, from whom the other applicants claim descent, were at the commencement of the War of the Rebellion the slaves of one Johnson Whitmire, a Cherokee citizen, that during the war these alleged slaves, Martha Albert and Jennie Barnes went South to Red river in the Chickasaw Nation where they remained until the fall of 1866 when they claim to have returned with one Ellis Earlin to the Cherokee Nation and settled with him on the Gale Starr place near Sherrebe Junction. The evidence adduced shows that Johnson Whitmire and George Whitmire, brothers and Cherokee citizens, owned before the war several slaves, designated as the "Whitmire darkies". The attempt to identify Martha Albert and Jennie Barnes as one of the "Whitmir darkies" at the commencement of the war has signally failed.

Wait Whitmire, son of Johnson Whitmire, who claims to have known the names of all the slaves of his father, testified that he had no recollection of any two female girl slaves named Martha and Jennie and can not even recall the fact that his father ever owned a slave named Nancy Whitmire, the mother of said girls. Nancy Still whose mother was George Whitmire, brother to Johnson Whitmire who only kept four miles distant and

know all the colored people raised by Johnson Whitmore testified positively that Johnson Whitmore did not own a slave named Peter Whitmore nor a slave named Martha Whitmore. Mr. W. Sperry who lived in the Swing Switch District, Harrison County before the war and who will know Johnson Whitmore from then to there a distance of ten or twelve miles, testified that the Whitmore boys, George Whitmore and Johnson Whitmore,at the time they divided up their property in 1867 sold a slave named Nancy Whitmore with her whole family to a man named Billingham who moved them with his family right across the line into Arkansas at a town called Dutch Town or Yokum where he remained until he moved to Texas in 1868-69 that he knew the Carolina "Peter Whitmore[illegible] got more than I did before" and that Billingham only lived five miles from where Johnson Whitmore lived. It is evident that the principal witness Martha Elbert and her sister Jennie Barnes were living at Johnson Whitmore of the Peter Whitmore at the close of the war as Jennie Barnes husband testified that he married in Shreveport, Louisiana June 24th, 1867 and that where it appears Martha Barnes was born and there her husband visited much of his time after marriage. Martha Elbert claims to have married her husband in the Carolina Whitmore during the war while her husband Wesley Barnes was in the army and after his return to the Carolina Whitmore. The claim of Nancy Whitmore the widow of the principal applicant Carolina Whitmore is shown by more documents to hold but the claim of her heirs is not sustaining proof. The belief that the principal applicant, Martha Elbert was living in Arkansas and not in the Carolina Whitmore is shown by both by Carolina correspondence by the testimony of Mrs. Martha Elbert

nee Ruth Harlin and Mrs. Anna Finley nee Anna Harlin, daughters of Ellis Harlin with whom it is claimed Nancy Whitmire and her two daughters, Martha and Jennie returned from the Choctaw Nation to the Cherokee Nation in November 1866. Mrs. Hunt and Mrs. Finley testify positively to the fact that their father Ellis Harlin did not return to the Cherokee Nation until February or March 1867, that no colored people returned in his company, that the first time they ever saw Martha Albert was in the "summer of 1867" when their father "went over in Arkansas somewhere towards Van Buren and hired the man to come and work", that the man's name was Albert and his wife's name was Martha, that neither the witnesses nor his wife ever claimed to have ever been the slaves of Johnson Whitmire whom witnesses knew before the war, nor did either claim to h Chem hes freedmen that they ever heard of, until the roll was taken at Vinita in 1898 and applicants are identified as former hired help. John Melton testified that Martha Albert's husband told him "he found her at the Harlin place." If that be true and Martha Albert admits that on her return she first settled on the Cale Starr place on which Ellis Harlin lived it is evident that she did not return to the Cherokee Nation until the "summer of 1867." In view of all the facts and circumstances of this case, this office is of the opinion that the principal applicant Martha Albert and her sister Jennie Parris now deceased, of whom the other applicants claim to be descendants, were not the slaves of Cherokee citizens at the commencement of the war of the Rebellion nor were they given intermarriage in the Cherokee Nation at the

commencement of the rebellion and even had they been, which is denied, it is shown that they went out of the Cherokee Nation and did not return thereto prior to February 11, 1867, in contravention of the treaty of July 19, 1866, which provides:

"All freedmen who have been liberated by voluntary act of "their former owners or by law, as well as all free colored "persons who were in the country at the commencement of the "rebellion and are now residents therein, or who may return "within six months, and their descendants, shall have all the "rights of native Cherokees."

As the burden of proof lies upon claimants to establish their rights to recognition as Cherokee freedmen under the provisions of the treaty of July 19, 1866, and as they have failed to bring themselves within its purview, it follows that all of the [illegible] applications for enrollment as Cherokee freedmen must be denied.

We come now to the discussion of another point involved. It appears of record that the names of Martha Albert and her minor children Elijah and Ida are found on the Kern-Clifton roll while the names of several of the descendants are found upon the Vallery roll. None of the applicants names are to be found upon the authenticated roll of 1880 nor upon the census roll of 1896.

Attorney for applicants contends that as the name of Martha Albert and her minor children, Elijah and Ida appear upon the Kern-Clifton roll, that such fact is conclusive of their rights as Cherokee freedmen and pleads [illegible] adjudication to any action by the Commission. Such contention cannot be maintained.

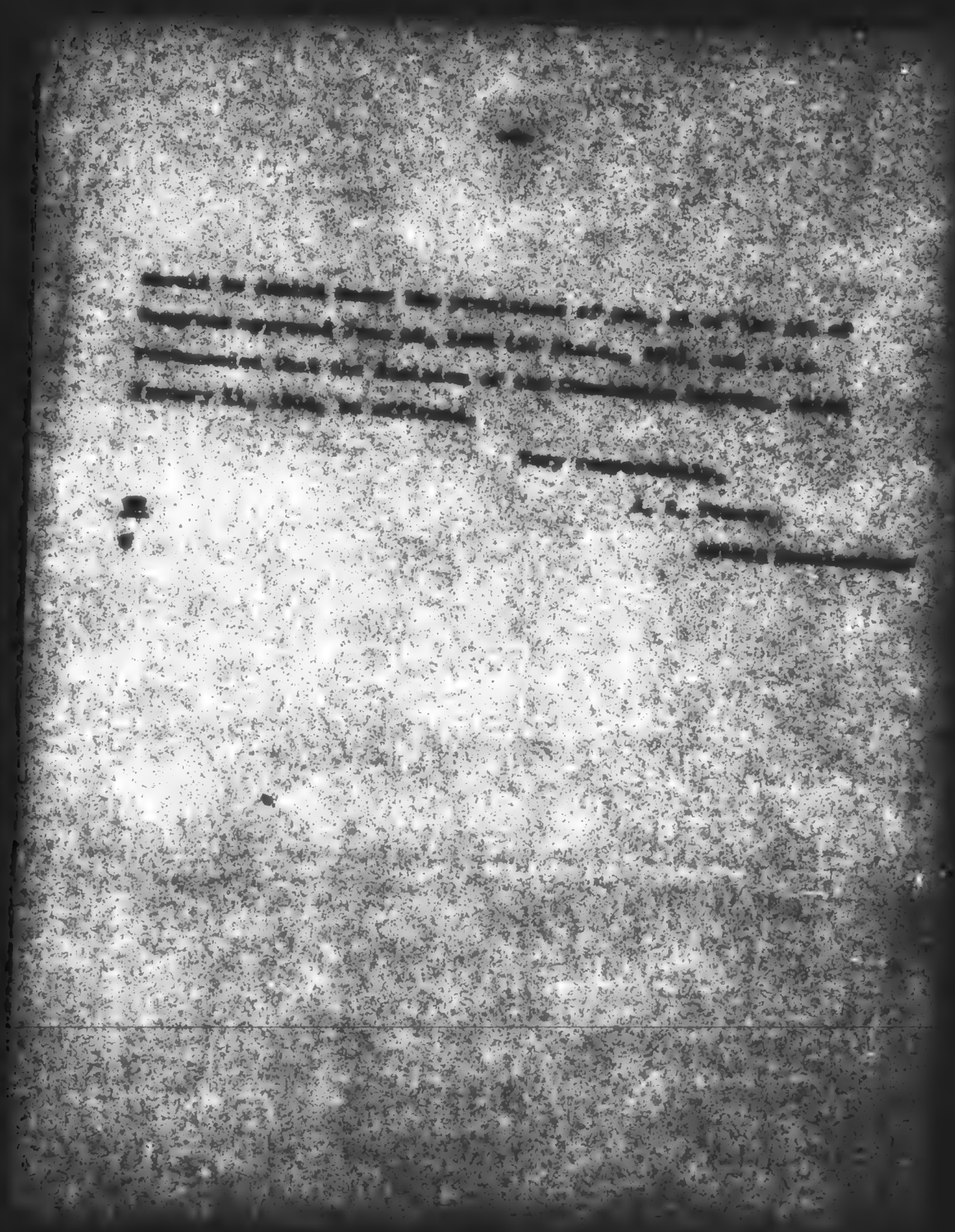
Congress by Act of June 28, 1898, Sec.11, directed the Commission to the Five Civilized Tribes as follows:

"It shall make a roll of Cherokee freedmen in strict "compliance with the decree of the Court of Claims rendered the "third day of February eighteen hundred and ninety six."

The Court in its decree of February 3, 1896, (see P.4), instructed said Commission as follows:

"The said Commissioners in ascertaining the identity of "the freedmen entitled to share under the decree, shall accept "that is known as the authenticated Cherokee roll, the same "now being on file in the office of the Secretary of the Interior, "having been furnished to him and purporting to have been taken "by the Cherokee Nation in 1880 for the purpose of showing the "number of freedmen then entitled to citizenship in the said "nation under the terms of the treaty between the United States "and the Cherokee Nation hereinbefore referred to, and their "descendants, and no evidence shall be accepted by said Commission "tending to disprove the citizenship of any of the persons "whose names appear upon said roll", and supplementary thereto, Sec. 21, of the Act of June 28, 1898, states expressly the proposition that the roll of Cherokee citizens of 1880 (and freedmen) is "the only roll intended to be authorized by this and preceding acts of Congress", thus in effect declaring that the plea of res adjudicata can not prevail unless the name of the applicant appears upon the authenticated roll of 1880.

which is not here claimed. Neither the fact of claimant's name appearing upon the Kerns-Clifton roll nor the fact of the names of her descendants appearing upon the Vallano roll, constituted any bar to further action by the Commission, as the Commission was expressly empowered by Sec.21 of the Act of June 28,1898, to "investigate the right of all other persons whose names are found on any other rolls and omit all such as may have been placed "thereon by fraud or without authority of law, enrolling only such "as may have lawful right thereto." Thus the Commission was left free to act, as upon a new inquiry, to determine what freedmen, omitted from the roll of 1880 but "whose names are found on any other rolls" are entitled to the benefit of Article IX of the treaty of 1866. For the foregoing reasons, I concur in the opinion of the Commission that the applications for enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Hamlin, Sarah French, Fred H. Hamlin, Henry Barnes, Annie Barnes, Walter Barnes, Henry Albert, Harry Albert, Raymond Albert, Lenny Albert, John Barnes, Francis A. Barnes, Ethan A. Barnes, Jerry Albert, Lillie White, Hattie White, Henry White, Anna White, Malinda McLain, Samuel McLain, Ellis McLain, Christian McLain, Charles McLain, Turner McLain, Jeannette McLain, Frank Gardner, Joshua Barnes, Maggie Bull and George L. Bull, as Cherokee freedmen,



D.f. 21472-1904. W.E.F.
I.T.D. 6728-1904. J.P.
L R S FEB

DEPARTMENT OF THE INTERIOR,
WASHINGTON, June 21, 1904.

Commission to the Five Civilized Tribes,
Muskogee, Indian Territory.

Gentlemen:

January 11, 1904, you transmitted the record in the consolidated case embracing the applications of Martha Albert et al. (I.T.D.-42), for enrollment as Cherokee freedmen, with your decision of the same date, rejecting the applications.

Reporting June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letter is inclosed.

The Department affirms your decision, for the reasons stated therein.

Respectfully,

(Signed) E. A. Hitchcock,

2 inclosures. Secretary.

Muskogee, Indian Territory, June 22, 1904.

A. S. Mehee,
Attorney for Martha Albert, et al.,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for enrollment of Martha, Elijah, Ida, Albert, Robert Barnes; Lula Knolls, Sarah Frank Fred R. Knolls; Henry, Harry, Raymond, Lenny, Albert Johns, Bessie A. Jane A., Barnes; Jerry Albertalilla, Mattie, Henry, Anna, Thilo; Melinda, Samuel, Ella, Charles; Turner, Jeanette, Christiana, Edwin; Frank Bartlett, Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George L., Nelly; Henry, Annie, Walter, Barnes; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-43 et al.
Muskogee, Indian Territory, June 25, 1906.

W. W. Hastings,
Attorney for the Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1906, rejecting the applications for the enrollment of Martha, Elijah and Ida Alberty Robert Harmon; Lula Riddle, Sarah Trumbo, and Fred E. Kimling Henry, Annie and Walter Seyburn Henry, Harry, Raymond and Leroy Alberty; John, Oswald A., and Pete A. Harmon; Perry Alberty Lillie, Hattie, Henry, and Amos White; Malinda Russell, Ella, Charles, Turner, Fannie, Christian, Melvin Trumbo Anthony; Graham Harmon; Sarah Brown, Maggie Williams; Minnie Seyburn Trumbo, George L. Ellis was affirmed by the Secretary of the Interior on June 21, 1906.

Respectfully,

Commissioner in Charge.

Mdg

COMMISSIONERS
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BREEDINRIDGE.

WM. O. BEALL,
SECRETARY

ADDRESS ONLY THE
COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

REFER IN REPLY TO THE FOLLOWING:
Cherokee Freedmen
D-106.

Muskogee, Indian Territory, June 28, 1904.

Lillie White,

Melvin, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and three minor children, Mattie, Nancy and Amos White, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

W. C. F.
FHE.

DEPARTMENT OF THE INTERIOR,

D. C. 16476-1905.
I. T. D. 1332-1905. WASHINGTON. March 25, 1905.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department has considered a motion filed by attorneys Neal and London, of Fort Smith, Arkansas, dated December 10, 1904, to reopen the Cherokee enrollment case of Martha Albert, et al.

January 11, 1904, you decided that the applicants in said case were not entitled to enrollment, and on June 21, 1904, your decision was approved by the Department.

The attorneys desire the case reopened in order that newly discovered evidence may be introduced to show that previous to the breaking out of the war Johnson Whitmire owned two slaves by the name of Martha; that prior to the breaking out of the war one of said slaves was sold to a man named Dillingham who lived in Arkansas; that she married a man named Williams; that the other Martha, known as "Little Martha", who is one of the applicants in the case of Martha Albert, et al, married a man named Albert who lived in the Cherokee Nation. It is claimed by said attorneys that the evidence introduced by the Cherokee

Nation at the original hearing does not apply to the applicant herein.

It appears from the motion and the affidavits submitted that the case should be reopened. The motion is hereby granted. You will so notify the applicants and their attorneys and the attorney for the Cherokee Nation, and allow a reasonable time for the introduction of additional testimony, after which you will readjudicate the case.

The motion, the record and other papers in the case are inclosed.

Respectfully,

(Signed) E. A. Hitchcock

Secretary.

6 inclosures.

COPY.

Cherokee Freedmen

R-424.

Muskogee, Indian Territory, April 8, 1905.

Lillie White,

Garrison, Indian Territory.

Dear Madam:

In the matter of the application for the enrollment of yourself, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1332-1905), remanding this case for rehearing and readjudication.

You are, therefore, hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as you may desire in the matter of your said application. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED). T. B. Needles.
Commissioner in Charge.

Incl. S-55.
Register.

COPY.

Cherokee Freedmen

R-413, et al,

Muskogee, Indian Territory, April 6, 1906.

Veal & London,

Attorneys for Martha Albert, et al.,

Fort Smith, Arkansas.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 28, 1906 (I.T.D. 1332-1906), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its office in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 26, 1906, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED) T. B. Needles.
Commissioner in Charge.

Encl. R-413.
Registered.

COPY.

Cherokee Freedmen

Nedle, et al.

Muskogee, Indian Territory, April 8, 1905.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that this Commission is in receipt of departmental letter of March 28, 1905 (I.T.D. 1252-1905), remanding this case for re-hearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 27, 1905, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED). T. B. Needles.

Commissioner in Charge.

Encl. 2-42

COPY.

Cherokee Freedman
R-424

Muskogee, Indian Territory, July 24, 1905.

Lillie White,

Garrison, Indian Territory.

Dear Madam:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, denying your application for the enrollment of yourself and children, Mattie, Nancy and Amos White, as Cherokee freedmen. There has heretofore been furnished your attorneys, Neal and London, Fort Smith, Arkansas, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Tams Bixby.

Commissioner

Inel. R-20

COPY. Cherokee Freedmen R 418 et al.

Muskogee, Indian Territory, July 24, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment as Cherokee Freedmen of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Ewalls, Sarah French, Fred E. Ewalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewis Albert, John Barnes, Cussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain Christians McLain, Charles McLain, Turner McLain, Jennetta McLain, Mattie McLain, Frank Gardner, Jeaken Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, including the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1906, rejecting said applications.

On January 11, 1904, the Commission to the Five Civilized Tribes rendered its decision denying said applications,

Secretary--2.

excepting Estelle Nelson, whose rights to enrollment were not at that time considered, and on June 21, 1904 (I.T.D. 4734-1904), said decision was affirmed by the Department. On March 22, 1905 (I.T.D. 1332-1905), this case was reopened by the Department, and remanded for further testimony and readjudication.

Respectfully,

Tams Bixby.
Commissioner

Incl. B-22

Cherokee Freedmen
R 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1905

Neal and Lemdon,

Attorneys for Martha Albert et al.,

Fort Smith, Arkansas.

Gentlemen:

There is inclosed here ith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert, et al., C.F.R., 418, Robert Barnes, C.F.R. 419, Lula Knaills et al., C.F.R. 420, Nancy Barkum, et al., C.F.R. 422, Henry Albert et al., C.F.R. 423, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 425, Lillie White et al., C.F.R. 424, Malinda McLain et al., C.F.R. 426, Frank Gardner, C.F.R. 430, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Yeal and Lyndon--1.

The decision, with the record of proceeding had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Jamie Bixby,
Commissioner.

Encl, R-38

Cherokee Freedmen

E 416 et al.

COPY.

Muskogee, Indian Territory, July 24, 1906

Bell, Hastings and Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1906, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al., C.F.R. 416, Robert Barnes, C.F.R. 419, Lula Knalls et al., C.F.R. 420, Nancy Durham et al., C.F.R. 425, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White et al., C.F.R. 424, Melissa Nichols et al., C.F.R. 425, Frank Gardner, C.F.R. 426, Jerome Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Bell, Hastings & Davenport,-2

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED: Tams Bixby.

Inal. H-36

Commissioner

-COPY- G.R.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON.

D.C. 22958.
I.T.D. 4732-1904.
1352-1905.
8789- "
10288- "
L.R.S.

June 2, 1906.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

July 24, 1905, yourtransmitted the remanded record with your readjudication in the matter of the consolidated applications for the enrollment of Martha Albert et al. as Cherokee freedmen, including your decision of same date, adverse to all the applicants.

August 12, 1905, the Acting Commissioner of Indian Affairs reporting thereon, recommended that your decision dated July 24, 1905, adverse to all the applicants named in his said letter, be approved. A copy of his letter, including the names of applicants affected by this decision, is inclosed.

The Department concurs in the recommendation made and your decision dated July 24, 1905, denying the application for the enrollment of Martha Albert and others named in Indian Office letter of August 12, 1905, is hereby affirmed.

A motion for review of said decision filed with the

Department on September 7, 1905, by Messrs. Blue & Bulger and McGowan, Serven & Mohun, attorneys for moving parties therein, is hereby denied.

Respectfully,

Jesse E. Wilson,

Assistant Secretary.

1 inclosure.

Cherokee Freed-
men R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Tams Bixby,
Commissioner.

Incl.P-16

REFER IN REPLY TO THE FOLLOWING:
Cherokee Freedman
R-424

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 15, 1906.

Lillie White,

Garrison, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting, among others, your application for the enrollment of yourself and children as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion for review of your case, filed September 7, 1905, is denied.

Respectfully,

Commissioner.

MCP

COPY.

Cherokee Freedman
R 418

Muskogee, Indian Territory, June 15, 1906.

Neal & London,

Atterneys for Martha Albert,

Ft. Smith, Arkansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED).

Tams Bixby.

Commissioner.

Incl.P-15
MMP

Cherokee Freedmen
R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Blue & Dulger,
Attorneys for Martha Albert,
Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 26, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that the motion filed by you September 7, 1905 for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Tams Bixby.
Commissioner.

Incl. P-17
MKP

DEPARTMENT OF THE INTERIOR,

LAND
59345-1905.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

August 12, 1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated July 24, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Martha Albert for herself and her minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and her minor children, Sarah French and Fred E. Knalls; by Nancy Borkum for herself and her minor children, Annie and Walter Borkum; by Henry Albert for himself and his minor children, Harry, Raymond and Lewey Albert; by John Barnes for himself and minor children, Gussie A. and John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and her minor children, Mattie, Nancy & and Amos White; by Charles McClain for his wife, Malinda McClain, and his minor children, Samuel, Lila, Christiana, Charles, Turner, Jennetta and Mattie McClain; by Frank Gardner for himself; by Jsohua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself, and by George C. Bell for his wife, Maggie Bell, and his minor child George L. Bell.

July 24, 1905, the Commission decided adversely to all the applicants.

The record shows that on January 11, 1904, the Commission rendered a decision denying these applicants, except Mattie McClain inadvertently omitted, and that on June 21, 1904, the decision was affirmed by the Department; that thereafter, on March 25, 1905 (I.T.D. 2332-1905) the Department reopened and remanded the case for further testimony and readjudication.

The record further shows that the applicant, Martha Albert and Jennie Barnes, deceased, were full sisters, and were born prior to the beginning of the war of the rebellion; that all the other applicants were born since the beginning of the war, are lineal descendants of the applicant, Martha Albert and Jennie Barnes, deceased, and possess no rights to enrollment other than as such descendants.

It is further shown that the applicant, Martha Albert and Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the beginning of the war of the rebellion, and that they did not return to the Cherokee Nation on or before February 11, 1867.

Excepting the Wallace and Kern-Clifton, none of the applicants is identified on any roll of the Cherokee Nation.

In view of the record the approval of the Commission's decision adverse to all of the applicants is recommended.

Very respectfully,
C. F. Larrabee,
Acting Commissioner.

F.M.M.
W.

Cher Fr R 425

see Cher Fr R 418 thru 424
and 426 thru 431

Cher Fr R 425

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T. April, 18th 1901.

In the matter of the application of Nancy Borkum, for the enrollment of herself and two children as Cherokee Freedmen; she being sworn by Commissioner C. R. Breckinridge, testified as follows:

Q What is your name? A. Nancy Borkum
Q How old are you? A. 31.
Q What is your post office? A. McKee.
Q In what district do you live? A. Sequoyah.
Q Do you want to be enrolled as a Cherokee Freedman? A. Yes sir.
Q Who do you want to have enrolled besides yourself? A. Two children only.
Q How long have you lived in the Cherokee Nation? A. All my life.
Q Give me the name of your father? A. Colly Albert.
Q Is he alive? A. Yes sir.
Q Give me your mother's name? A. Martha Albert.
Q Is she alive? A. Yes sir.
Q You have been married have you? A. Yes sir.
Q How many times? A. Only once.
Q To whom were you married? A. Dutch Borkum.
Q He dont claim to be a Cherokee citizen does he ? A. No sir.
Q You dont make an application for him? A. No sir.
Q When were you married to him? A. In 1894.
Q Were you married under a Cherokee license? A. No sir.
Q What are the names of your children? A. Annie Borkum
Q How old is she? A. 15 years.
Q Give me the name of the next one? A. Walter Borkum.
Q How old is he? A. 9.
Q These children are both living are they? A. Yes sir.
Q Is that woman over there your mother? A. Yes sir.
Q She has two children that she applied for? A. Yes sir.

NOTE: ( By Commissioner ) Her case is Cherokee Freedman card, D.#42.

Q You claim through your mother do you? A. Yes sir.

Kerns-Clifton roll of the Cherokee Nation examined and the applicant and her two children are identified thereon as follows:
Page 160, No. 3946, Nancy Barkum, Sequoyah district.
Page 160, No. 3947, Annie Barkum, Sequoyah district.
Page 160, No. 3948, Walter Barkum, Sequoyah district.

The 1880 authenticated roll of the Cherokee Nation examined and the names of the applicants are not identified thereon.

The 1896 census roll of the Cherokee Nation examined and the names of the applicants are not identified thereon.

MARTHA ALBERT, being called and sworn as a witness, testified as follows; ( By Commissioner Breckinridge )

Q What is your name? A. Martha Albert.
Q How old are you? A. 56 or '7.
Q What is your post office? A. Melvin.
Q You have already applied for your own enrollment and for the enrollment of two minor children? A. Yes sir.

Q Are you the mother of this applicant here? A. Yes sir.
Q She is married is she? A. Yes sir.
Q Give me the name of her husband? A. Berkum
Q His full name? A. Dutch Berkum
Q How many children has she? A. Two.
Q How long has she been married to this man Dutch Berkum? A. I cant tell about that.
Q As near as you can come to it? A. Some 7 or 8 years.
Q She says that she has two children, and one is 15 years old and one is 9 years old, are these her own children? A. Yes sir.
Q Not adopted children? A. No sir.
Q You know they are her natural children? A. Yes sir.
Q Do they go by the name of Berkum? A. Yes sir.

By Cherokee Representative W. W. Hastings-

Q Did any Cherokees come back to this country with you when you came back from the Choctaw Nation in 1886? A. No sir.
Q Did you testify that along in the same crowd with you was Ruth and Em Harlin-- that they came back with you? A. No sir, they were here when I get here.
Q Were they down south with you? A. No sir.
Q Didn't you testify five years ago before the Kerns-Clifton Commission that you came back with Ruth and Em Harlin? A. My father he brought us back and we crossed the river with Willis Harlin, but my father he brung us back.
Q Didn't you testify five years ago that you came back with Ruth and Em Harlin? A. No sir.
Q Or that they came back with you? A. No sir.

By Com'r Breckinridge.-

The applicant applies for the enrollment of herself and two children. She claims to have lived in the Cherokee Nation all her life, but she is not identified on the roll of 1880 or the census roll of 1896; she is identified on the Kerns-Clifton roll. Reference is made to the case of her mother Martha Albert, Cherokee Freedmen Doubtful Card #45 for further evidence in this case. The applicant's change of name arising from her marriage is established by her own and her mother's testimony and she will now be listed for enrollment of a doubtful card as a Cherokee Freedman. Her two children are identified on the Kerns-Clifton roll, they are living now, and will be listed for enrollment as Cherokee Freedmen on a doubtful card with their mother. The final disposition of this decision of the Commission will be made known to the applicant at her post office addressed.

* * * * * * * * *

Chas. von Waise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all the proceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes thereon.

Subscribed and sworn to before me this the 16th day of April, 1901, at Fort Gibson, I. T.

Commissioner.

FP101

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
APR 18 1901

ACTING CHAIRMAN

CHEROKEE FREEDMEN

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date APR 18 1901

Post Office Mc Kee

District Seq

1. Name _____ Age _____

Owner's name _____ Citizenship _____

Year _____ Page _____ No. _____ District _____

Parents:

Father _____ Citizenship _____

Mother _____ Citizenship _____

(1) Name of wife Nancy Barkum Barkum Age 31

Owners name _____ Citizenship _____

Year KC Page 160 No. 3946 District Seq

Parents:

Father Colly Albert Citizenship Col

Mother Mattie Albert Citizenship Col

Names of Children:

1 Annie Barkum Year KC Page 160 No. 3947 Dist. Seq 15

2 Walter " Year KC Page 160 No. 3948 Dist. " 9

5. _____ Year _____ Page _____ No. _____ Dist. _____

6. _____ Year _____ Page _____ No. _____ Dist. _____

7. _____ Year _____ Page _____ No. _____ Dist. _____

8. _____ Year _____ Page _____ No. _____ Dist. _____

9. _____ Year _____ Page _____ No. _____ Dist. _____

10. _____ Year _____ Page _____ No. _____ Dist. _____

11. _____ Year _____ Page _____ No. _____ Dist. _____

12. _____ Year _____ Page _____ No. _____ Dist. _____

Application made by Self Stenographer Van Wagoner Clk

(1) a KC Roll a Nancy Barkum

(2) " " " Annie Barkum

(3) " " " Walter Barkum

Doubtful

Doubtful

To be filed in case of Nancy Borkum, Cherokee Freedmen, D.101.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 10,1901.

In the matter of the application of Martha Albert for the enrollment of herself and two children as Cherokee Freedmen; being sworn and examined by Commissioner Needles, she testified as follows:

Q What is your name? AMartha Albert.
Q How old are you? A About 54 or 5 years old.
Q What is your post-office address? A Melvin.
Q What district do you live in? A ~~Saline~~ I live in Tahlequah District now; but I have been living in Sequoyah.
Q Do you apply to be enrolled as Cherokee Freedman? A Yes sir.
Q Did you ever apply to be enrolled as a Freedman of any other tribe or nation? A No sir.
Q Have you been recognized by the Cherokee authorities as a Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A I don't know.
Q Who do you want to enroll besides yourself? A I have got two children.
Q What are the names of your children? A Elijah Albert, 19 years old; Ida Albert, 10 years old.
Q Are you married? A Yes sir.
Q What is your husband's name? A Holly Albert.
Q Is he a citizen? A Well, he has been raised by them.
Q Is he living? A Yes sir.
Q Where is he? A He is down town.
Q Were you a slave? A Yes sir.
Q What was your owner's name? AJohnson Whitmire.
Q Where were you at the beginning of the war between the Confederacy and the United States? AGoing snake.
Q Were you taken out of the nation during the war? A Far as Red River.
Q This side or the other side of Red River? A This side.
Q When did you come back? A In '66.
Q You have been living down here ever since '66? A Yes sir.
Q What was your name before you were married? A I went by my owner's name, Martha Whitmire; I always goes by the name of Mat now
Q Your name though is Martha? A Yes sir.
Q Have you ever lived in Cooweescoowee District? A No sir.
Q What is the reason your name aint on the roll of 1880? AI don't know; you know how ignorant people was, didn't know how to go at such business.
Q You say you were a slave of Johnson Whitmire? AYes sir.
Q And that you came back to the Cherokee Nation in '66? A Yes sir.
Q You sure it was '66? A Yes sir.
Q You think it wasn't '76? A No sir, '66.
Q You wasn't here in '65? A No sir.

Examined by Cherokee Representative, James Davenport:

Q Who did you come back to the Cherokee Nation with when you came back? A With Ellis Harlin.
Q Where did you go first when you came back? A I stopped right down on the Gale Starr place where the Cherokee Junction is now.
Q Stopped on the Arkansas side did'nt you? A No sir, I didn't.
Q How long did you live in Ft. Smith? ANever lived in Ft. Smith any.
Q How long did you stay there? AI staid there 2 years, and then went to Lee's Creek.
Q Who did you live with there? A Cherokee family there, named Allison, and Mrs Franklin and all of them.
Q Where was Hickory Starr living at that time? A In Flint.
Q You didn't go up to Flint? A No sir.
Q Well, did you go to Going Snake District, No sir.

Q You just went to Sequoyah District and remained there? A Yes sir.

Examined by Commissioner Needles:

Q Have you got anybody here that knows you and knows you were here in '66? A Yes sir, Mandy Benton and John Melton.

JOHN MELTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A John Melton.
Q How old are you? A 64.
Q What is your post-office address? ABenge.
Q Are you a Cherokee Freedman? A Yes sir.
Q Have you always lived in the Cherokee Nation? A Yes sir.
Q You know Mattie Albert? A Yes sir.
Q Was she a slave during the war or before the war? AI don't know.
Q When did you first know her? A About '67, early in '67; I saw her husband in '66 sometime, and had a talk with him; he said he found her at the Harlin place; I often heard talk of them being down there, but I never see them for a few months after.
Q When did you first see her? A Early in '67.
Q Early as January? A No sir.
Q Sometime in the spring? A Yes sir, along in the spring.

Examined by Cherokee Representative, James Davenport:

Q You don't remember what time in '67 you saw her? A No sir, not exactly.
Q You don't know where they were during the war? A No sir.

MANDY BENTON, being sworn and examined by Commissiner Needles, testified as follows:

Q What is your name? A Mandy Benton
Q How old are yo , Mandy? A About 70.
Q What is your post-office? A Benge.
Q You are a Cherokee Freedman?Are you? A Yes sir.
Q You know Mattie Albert? A I have been knowing her ever since the surrender.
Q You know where she was at the close of the war between the Confederacy and the United States? A No sir, I don't think I do.
Q Where did you first get acquainted with her? A On the Harlin place.
Q What year was that? A '66.
Q Was she there in '66? A Yes sir.
Q You know whethershe had been a slave or not? A Yes sir, she was slave.
Q You know who her owner was? A Whitmire.

Examined by Cherokee Representative, James Davenport:

Q What makes you remember that it was in '66 when you first got acquainted with her, A Well, just by paying attention to others talking I reckon, and knowing it was that time.
Q How long after the surrender was it you got acquainted with her? A Well, really I don't know.
Q Was it two years or three years? A It might have been a year and maybe not so long; I don't remember.
Q Where was she living when you got acquainted with her?
A At the Harlin place.
Q Where is the Harlin place, I don't know Mandy? A It is in Sequoyah.
Q With whom was she living at that time? A With her husband and her children.
Q How many children had she? A I don't know how many children

she had.
Q How far were you living from where she was living at that time?
A I guess it's about very near two miles.
Q You remember any of the Cherokee families living in that locality where she was living? A No.
Q You don't remember anythig about it except it was in '66 you got acquainted with her? A Emma Harlin was living there then I think, if I mistake not.
Q Was Cale Starr[illegible] living there?
Q I don't know- I remember--
Q You know Cale Starr? A Yes sir. I would like to get it straight; I tell you I have had so much trouble since that time I don't remember.
Q You don't know whether it was '66 or '76? A It was '66.

Examined by Cherokee Representative, W.W.Hastings:

Q It was before the treatywas it aunty, that you got acquainted with her? A I guess it was.
Q Now, aunty, you don't know anything about years do you? A I forget them.
Q You didn't know anything about years then didyou? A Oh I guess I was here; I know a little something about it.
Q What year is this? A Now I disremember.

Examined by Commissioner Needles:

Q You are pretty positive though that you saw this woman in '66? A I sure is.

1880 authenicated roll of citizens of the Cherokee Nation examined and applicant not identifie d thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

Kerns-Clifton Pay roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows;
page 159 #3934 Mattie Albert, Sequoyah District;
page 159 #3936 Elijah Albert, Sequoyah District.
page 159 #3937 Ida Albert, Sequoyah District.

Q Have these children always lived in the Cherokee Nation?
A Born and raised here.

Com'r Needles: The name of Mattie Albert and her children Elijah and Ida are found upon the Kerns-Clifton roll; their names do not appear upon the authenticated roll of 1880, nor the census roll of 1896; they are duly identified; now comes the Cherokee Nation and protests against theirenrollment consequently, final judgment will be suspended as to the enrollment of said Mattie and her children and their names will be placed upon a doubtful card.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this April 24, 1901.

Commissioner.

To be filed in case of Nancy Borkum, Cherokee Freedman, D 101.

SUPPLEMENTAL: D 42.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Martha Albert et al for enrollment as Cherokee Freedmen;
Albert Johnson, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Albert Johnson.
Q How old are you? A I am 43
Q What is your post-office? A Benge.
Q In what district do you live? A Sequoyah.
Q You want to give some testimony in the case of Martha Albert and her children? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been living here all my life, with the exception of going out into the Choctaw Nation during the war.
Q At what time did you come back to the Cherokee Nation? A '65.
Q And have you lived here ever since? A Yes sir; I have been right in the Territory ever since.
Q Do you know Martha Albert? A Well, yes sir, I do to some extent.
Q How far does she live from you? A She lived right by us.
Q At one time? A Yes sir.
Q When was that? A Oh that has been I reckon about 24 or 5 years ago since she lived right by us, I guess; I wont say that for certain.
Q What was her name in that day? A Well she went by Mattie Albert.
Q Do you know what her name was before it was Albert? A No sir. I couldn't say just what her name was, because I didn't know.
Q Where did she live before that time, 24 or 5 years ago, when you and she lived close together? A I am going to tell you just like I now; I aint going to tell nothing more than that; they said she lived up on Lee's Creek; I don't know that.
Q You have no knowledge of your own? A No sir, not as to whereabouts she was living at all.
Q So of your own knowledge, except for hearsay, you don't know anything more than 24 or 5 years ago, is that so? A Yes sir.
Q Your first personal acquaintance with her was 24 or 25 years ago, as near as you can place it now? A Yes sir.
Q How old were you when you first knew her? A I guess I must have been about 17 or 18 years old; I guess I was, I don't know exactly.
Q You were most a young man? A Yes sir.

Examined by Cherokee Representative, W. J. Hastings:

Q How far, Albert, did you live from Lee's Creek? A I lived 10 miles from Lee's Creek.
Q Yet you never saw her before that time? A No sir.

ANDY CROSSLAND, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Andy Crossland.
Q How old are you? A About 74.
Q What is your post-office? A McKee.
Q In what district do you live? A Illinois District.
Q You want to give testimony in the case of Martha Albert and children? A Yes sir.
Q How long have you lived in the Cherokee Nation? A I have been here all the time, born here.
Q Were you in the Cherokee Nation during the Civil War? A Yes sir.

Q All the time during the war? A Yes sir, I was a soldier.
Q When did you begin soldiering? A I can't tell you; I was a soldier.
Q What command were you in? A Cherokee.
Q In the Union Army? A Home Guard.
Q Were you Home Guard on the Union side or the Confederate side?
A Confederate side.
Q Well, then, you quit soldiering of course when the war closed?
A Yes sir.
Q Did you surrender? A Yes sir.
Q Where did you surrender? A Right here at Ft. Gibson.
Q When did you first know Martha Albert? A After the war.
Q Where did you live before the war? A Down in Sequoyah Dist.
Q Were you a slave in those days? A Yes sir.
Q To whom did you belong, did you belong to a man named Crossland?
Q Yes, his wife.
Q What was her husband's name? A John.
Q You were paroled here at Ft. Gibson? A Yes sir.
Q Where did John Crossland and his wife live? A In Sequoyah District.
Q Near what town? A Close to Redland.
Q Who did Martha Albert belong to in old times; she was a slave in old times was she? A I couldn't tell you.
Q You don't know about that? A No sir.
Q You don't know, then of course, where she lived back before the war? A He used to live there in Flint.
Q Who are you talking about? A Martha.
Q You said he, you mean Martha Albert? A Yes sir.
Q You say she must have lived in Flint, but you don't know,
A No.
Q When did you first see her? A Close to Ft.Smith on Cale Starr's place; had a place close to Stone wall, and I was going towards Van Buren and I staid all night with her.
Q How did you happen to see her? A I staid all night with her.
Q Staid all night there? A Yes sir.
Q She was living on the plantation? A Yes sir, on Cale Starr's place.
Q She was a married woman then? A Yes sir.
Q You stopped at their home? A Yes sir.
Q What were you going down to Van Buren for? A Taking some cattle.
Q You had gone to work? A Yes sir.
Q How long had you been living up here before you started that trip? A I had been living all the time.
Q But after you were paroled and the war was over, you went to work? A Yes, well I stopped down at Sand Town after peace was made.
Q You were in the Home Guard? A Yes sir.
Q And after the war was over you were paroled? A Yes sir.
Q And then you went to work? A Yes sir.
Q Who did you go to work for? A Just sometimes hired in a job of cattle, to Van Buren.
Q How long had you been working after the war before you went down to Van Buren after the war with that lot of cattle? A Three or four years.
Q Three or four years then, after the war was over, and you had been paroled, you went down to Van Buren with a lot of cattle?
A Yes sir.
Q And on that trip you stopped at this woman's house and staid all night with her family? A Yes sir.
Q And at that time you got acquainted with her? A Yes sir.
Q That's the first time you ever saw her? A Yes sir.
Q And you have no knowledge of her before that time? A Yes sir.
Q Well you never knew her before that time? A No sir.
Q Have you been knowing her off and on ever since? A Ever since.
Q So you don't know where she was before you met her at that time? A No sir.

Martha Albert et al sup 3

ROSE ROGERS, being sworn and examined by Commissione Brookinridge, testified as follows:

Q Give me your full name? A Rose Rogers.
Q How old are you? A I pronounce my age 56 years of age.
Q What is your post-office? A Locust Grove.
Q In what district do you live? A Saline.
Q You want to give some testimony in the case of Martha Albert and her children? A Just of her owners and where she lived.
Q How long have you lived in the Cherokee Nation? A I have been bred and born in Goingsnake District, I have been nowhere else.
Q Lived here all your life? A Yes sir, until I went south with my owners time of the war.
Q Where did you go? A Down in the Choctaw Nation.
Q You remember the first year when you went to the Choctaw Nation? A Yes sir, just when the war broke out we went to the Choctaw Nation.
Q And you ame back when the war was over? A Yes sir.
Q Who did you belong to in those days? A Cornelius Wright.
Q Who was it Martha Albert belonged to? A She belonged to Johnson Whitmire; her mother did.
Q Did she belong to Johnson Whitmire herself? A Yes sir, she belonged to Johnson Whitmire; her mother and her mother's children; I was about 11years old.
Q How far did Johnson Whitmire live from Cornelius Wright? A Five miles, on the mouth of Barron Fork, close to Pea Vine Creek.
Q You know where Martha Albert was during the war? A No sir, I don't.
Q What do you know about her after the war? A I haven't seen her since the war until I met her here on Fourteen Mile Creek.
Q When was that? A Just last year; I saw her since she was a little girl.
Q So you haven't seen her since you went down to the Choctaw Nation during the war until you met her out here on the Creek last year? A Yes sir.
Q And that's all you know about her? A Yes sir. I knew her where she was bred and born on Barron Fork; she lived with Johnson Whitmire; there was two brothers then, George Whitmire and Johnson Whitmire.
Q Did you see her during the war? A No sir.
Q You don't know where she was taken? A No sir, but her people went south; they was in behind, so we went ahead of them; they located somewhere in the Choctaw Nation, but I couldn't say where.
Q You don't kow about that A No sir.
Q Did you know her in that day, before the war? A Yes sir, we were children together; just lived five miles apart; I just wanted to identify her mother, who they belonged to; and they were not sold out; I am qualified; I want to state what I know.
Q You know she was born in the Cherokee nation and went out during the war? A Yes sir.
Q And beyond that you don't know anything except when you met her about a year ago? A Yes sir. We was raised together; gathered hasel nuts together.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony andproceedings in this case and that the foregoing is a tue and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this April 24, 1901.

Commissioner.

To be filed in case of Nancy Borkum D 101.

Department of the Interior.
Commission to the Five Civilized Tribes.
Ft. Gibson, I. T., April 18, 1901.

In the matter of the application of Martha Albert for enrollment as a Cherokee Freedman; she being sworn and examined by Commissioner Breckinridge, testified as follows:
Supplemental testimony D - 43.

Q Give me your full name. A Martha Albert.
Q How old are you? A I don't exactly know; I hold myself for abut 57 years old.
Q What is your postoffice? A Melvin.
Q In what district do you live? A I live in Tahlequah District.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they all under 21 years of age? A No sir, they are all married but two.
Q Then you want to appolit hose two? A Yes sir.
Q Have you a husband? A Yes sir.
Q Do you want to apply for his enrollment also? A No sir
Q How long have you lived in the Cherokee Nation? A Been living here - I was born and raised here.
Q Lived here all your life? A Yes sir.
Q Have you applied before? A Yes sir, I didn't put my children on; I wasn't satisfied the way I went in for.
Q So you want to apply again? A Yes sir.
Q Why didn't you apply for your children when you applied before for yourself? A The witnesses couldn't stay.
Q You didn't have your evidence in good shape? A No sir.
Q I have here your enrollment card and it appears that you did apply for two children, one Elijah and one, Ida? A Yes sir.
Q Are those the names of your children? A Yes sir.
Q What you want to give now is some additional testimony? A Yes sir.
Q What witnesses do you want to introduce now? A Henry Brown and Andrew Crossland.

Henry Brown, being sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give me your full name. A Henry Brown.
Q How old are you? A I am suppose to be about 44 years old.
Q What is your postoffice? A Vian.
Q In what district do you live? A Illinois.
Q How long have you lived in the Cherokee Nation? A I lived here all my life, only the time of the war.
Q You were out during the war, were you? A Yes sir.
Q Where did you go? A Chickasaw Nation.
Q You lived in the Cherokee Nation before the war? A Yes sir.
Q Well you were quite a child during the war? A I was about 12 or 13 years old during the time of the war; maybe 16; I don't know my age exactly.
Q What time did you come back to the Cherokee Nation, the time during the war? A They said it was in the fall of '65.
Q You came from the Chickasaw Nation? A Choctaw rather.
Q Then you never were out of the Indian Territory during the war? A No sir.
Q Do you know an applicant here, Martha Albert? A She used to go by the name of Whitmire.
Q Is she known as Albert now? A Yes sir, by her husband's name.
Q Did she belong to a man named Whitmire before the war? A That's what they claim they belonged to Whitmire.
Q Were you a slave before the war? A Yes sir.
Q Who did you belong to? A JohnBrown.
Q What was Whitmire's full name, do you remember? A I don't know his full name.
Q Johnson Whitmire? A I heard that name, yes sir; I heard him

called by that name.
Q Well, now, in those days did you live near Whitmire's place? A No sir, I lived at thattime in Canadian District.
Q How far from Whitmire's place? A That's - I don't know how many miles. They claimed before the war something like forty miles; I don't know.
Q You came back to the Cherokee Nation when? A In the fall of '65.
Q When did you first see Martha Albert; as she is called now, after you come back? A It was in '66 as near as I can remember; I saw her at old Jack Campbell's church house.
Q You can't be certain what year it was? A No sir, but I think it was in '66.
Q Have you known her pretty well ever since that time? A I have been seeing her off and on; I lived in Illinois and they used to live in Sequoyah.
Q Has she been living in the Cherokee Nation ever since you saw her then? A That is where I have been seeing her.
Q About how often would you see her, once a year or once every five or ten years? A I couldn't say how often; it wasn't often.
Q But you have seen her some since? A Yes sir, some since I come back after the war.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q Did you ever see this woman before the war? A No sir, never seen her before the war.
Q You never knew her then? A No sir.
Q The first time you ever saw her was after the war? A Yes sir.
Q And you never heard her personal name? A No sir.
Q You don't know that this woman was among them, the Whitmires? A No sir, I don't know.
Q I mean among them after the war when you saw her? A I only knew that they were Whitmire's darkies.
Q Did you know her personally? A No sir.
Q Did you know her after the war? A Yes sir, I saw her at this church.
Q The first time you saw the Whitmire darkies, you don't remember this woman personally except seeing her in the crowd? A I saw her with the Whitmire darkies.
Q Were they at the Church house there at that time? A Yes sir.
Q Colored Church? A Yes sir.
Q Do you remember that this woman herself, individually, was among them? A No, only that they said they were Whitmires.
Q You don't remember this woman personally except the Whitmires generally that were there? A They said they was the Whitmire darkies.
Q Did you see this particular ###### individual colored woman at that time in '66? A As near as I said it was '66, thatwas the day I saw her at the church as a Whitmire.
Q Did you see this particular woman? A Yes sir.
Q Do you think you saw her in '66? A As near as I can come at it.
Q You are not positive? A I am satisfied that it was '66.
Q What makes you fix that date? A Because I think it must have been near that time. It was the time I moved on Canadian. I was living there.
Q You were living in Canadian then? A Yes sir.
Q What were you doing down there? A I was in the Court at Fort Smith.
Q Who was preaching there? A I didn't go there; I just happened to be around there and Harry Foreman.
Q You don't know who preached? A No sir.
Q You didn't know this woman before? A No sir.
Q Why was it that this woman among a whole crowd of darkies was pointed out to you and why do you remember? A Because I heard it was the Whitmire darkies.
Q There was a number of them? A She was a particular one, he said was a Whitmire darkey.

Q What makes you remember that? A Because he said so.
Q Was she married then? A I don't know whether she was or not.
Q You don't remember of seeing her husband then? A No sir, I don't.
Q Where was that church? A Jack Town, this side of the river.
Q How far from the Payne place? A Six or seven miles this way from the river.
Q By Cherokee Junction? A Yes sir.
Q You don't know who she come back with? A No sir.
Q You don't know how long she's been back? A No sir.
Q What time of the year was it you saw her? A As near as I can say it was '66.
Q Spring, summer or fall? A Along in August of '66.

Commissioner-
Q You were a stranger down there in that neighborhood? A No, not exactly I knowed some of the people down there.
Q How far did you live from there? A 45 or 6 miles.
Q Had you ever lived in that neighborhood? A I used to stay there a while after the war by Dr. Campbell place.
Q Did you visit or live there? A When I come there, I came from Fort Smith and stopped at Campbell's.
Q How long did you stay there? A Several months.
Q Were you acquainted with many of the Whitmire darkies as you call them? A No more than just heard them as Whitmires when I was at the church.
Q And there were a lot of them there and they said they were Whitmire people? A Yes sir.
Q There seemed to be a,lot of them? A This woman said she was a Whitmire and Charley Whitmire; they called them the Whitmire Darkies.
Q How long after that was it before you seen this woman again? A I couldn't say how long it was afterwards; it was some times afterwards.
Q Some years? A No years.
Q When were you down there again? A Several times after that.
Q You have been down there several times since that time you were at the church and the present day? A Yes sir, several times.
Q Well, about how long after being at the church before you went there again? A It must have been; I couldn't say, I stopped by Jacktown and would be on this side of the river. I can't say.
Q Were there a number of these Whitmire colored people down there? A They were acknowledged to be Whitmire pagans. They claim to be several of them; the ones I speak of is the one I saw that Sunday.
Q Were there quite a number of them? A They claim there was a good number of them.
Q You saw a good many who were claimed to be Whitmire people? A Yes sir, Whitmire darkies.
Q What impressed this woman on your mind? A Harry Foreman pointed her out to me as a Whitmire.
Q You weren't acquainted with her? A No sir, only saw her that Sunday.
Q He pointed her out and others as belonging to the Whitmire crowd? A Yes sir.
Q Do you think that was enough impression on your mind passing there to remember her during all this time, you living forty miles away? A I saw her since then; that was't the only time I saw her.
Q You can't say for certain what year it was you were down there? A No sir, as near as I can remember, I claim it must have been '66.
Q And this is as far as you can go? A Yes sir, in being honest.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q I believe you stated that you attended Court at Fort Smith? A Yes sir.
Q What trial? A Brother Green.

← M. A.

Q Was he tried at Fort Smith that year? A Yes sir.

Commissioner-
Q That is the year you claim you saw the woman at this church?
A Yes sir.
Q Remember we are talking about the year you saw the Whitmire people? A I think it was in '00.
Q I am not asking you about that, we are trying to locate what business you had in the Court at Fort Smith in the year that you were at the Church + what business took you to Fort Smith that particular year? A I couldn't say what year.
Q I never asked you about the year, I asked you about the business?
A As a witness.
Q In what case? A Green Lowry.

Examination by W. W. Hastings-
Q What Judge tried that case? A Judge Parker.
Q At Fort Smith? A Yes sir.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. J. Rothenburger

Subscribed and sworn to before me this 26th day of April, 1901.

Commissioner.

To be filed in case of Nancy Borkum, Cherokee Freedman, D 101.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I.T., April 18,1901.

In the matter of the application of Robert Barnes for the enrollment of himself as a Cherokee Freedman; being sworn and examined by Commissioner Brecki ridge, he testified as follows:

Q Give me your full name? A Robert Barnes.
Q How old are you? A 33.
Q What is your post-office? A Foreman.
Q In what district do you live? A Sequoyah.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Do you want to enroll anybody besides yourself? A My youngest sister; all the children is grown but my sister.
My mother is dead; I am applying for my brothers and sisters.
Q Why don't they apply for themselves? A Well, I am putting in the case for us.
Q Are your brothers and sisters all of age? A Yes sir, all but one.
Q Since they are of age, why don't they apply for themselves?
A Well they will do that.
(Com'r: The law requires that unless there is some very strong xxxxx reason to the contrary.
Q You have one sister under age? A Yes sir.
Q Does she live with you? A Lives with my father.
Q Where is your father? A He is at home.
Q He should apply for his child? A He don't claim any right himself.
Q Yes but he is the father, and he should apply for his child.
Q You apply then for yourself: how long have you lived in the Cherokee Nation? A Always.
Q All your life? A Yes sir.
Q Give me the name of your father? A Sam Barnes.
Q He is alive? A Yes sir.
Q Give me the name of your mother? A Jennie Barnes.
Q Is she alive? A No sir, she is dead.
Q How long has she been dead? A about ten years.
Q You say your father is not a Cherokee Freedman? A No sir.
Q Was your mother a Cherokee Freedman? A Yes sir.
Q You have never lived anywhere except in the Cherokee Nation?
A No sir.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant's name not found thereon.

1896 census roll of citizens of the Cherokee Nation examined and name of applicant not identified thereon.

Kern&Clifton pay roll of citizens of the Cherokee Nation examined and name of applicant not identified thereon.

Q You don't appear to be on any roll of the Cherokee Nation?
A I am on the Wallace roll.
Q Could you have been enrolled under any other name? A No sir
Q Has your mother lived with your father ever since they were married? A Yes sir.
Q Willie, Charley and Turner Barnes, are they your folks? A No sir
Q How old was your mother when she died? A I think she was about 42 or 3.
Q Where was your mother born? A In Georgia.
Q Was she a slave before the war? A Yes sir, said she was.
Q To whom did she belong? A Johnson Whitmire.
Q Where was she during the war? A I don't know sir.
Q Where were you born? A I was born in Sequoyah District.
Q Do you know where your mother was in '66 or '67? A Why she said she was living down there in an Cherokee station.

Q She was married to your father at that time? A Yes sir.

Com'r: Well, you see, so far we are without any evidence except hearsay evidence, that you have, about your mother being either a slave before the war, having been set free in the Nation in any way, and about where she was during the war, and when she got back; you see you were not born until '67 or '68 according to your age, and you are not on any roll, and you had better have your father come in and apply for this child, and give testimony also in your case; he may be able to throw some light on it.

Q Is there nowitness you want to bring in? A Yes sir, Mat Albert.

MARTHA ALBERT, being sworn and examined by Commissioner Brackinridge, testified as follows:

Q Give your name there, please? A Martha Albert.
Q How old areyou? A I am a bout 57 or 8 years old.
Q What is your post-office? A Melvin.
Q In what district do you live? A Live in Tahlequah District.
Q You want to give some evidence here in the application of Robert Barnes don't you for enrollment? A Yes sir.
Q You have made an application for yourself and two children? A Yes sir.
Com'r: This is D 42.)
Q A trouble in your own application appeared to be to establish when you came back to the Cherokee Nation after the war? A I came back here two months before the '66 treaty went off.
Q You know Robert Barnes do you? A Yes sir.
Q How longhave you known him? A I have known him ever since he has been born; he was my sister's child.
Q Child of your sister, Jennie? A Yes sir.
Q She belonged to Johnson Whitmire? A Yes sir.
Q Were you and she taken out of the Cherokee Nation during the war? A We went to Red River in the Choctaw Nation.
Q You didn't go Across the river? A No sir, we never crossed into Texas.
Q Was your sister there with you? A Yes sir.
Q And both of you belonged at that time to Johnson Whitmire, did you? A Yes sir.
Q Well did she come back with you? A Yes sir.
Q Johnson Whitmire brought you both back? A No sir, my father brought us back.
Q You and your sister came back together? A Yes sir.
Q What was the father doing down there? A We live went south.
Q Was he working down there? A Yes sir.
Q On a plantation? A Yes sir, he was a free many he always just dug wells around for people.
Q Your father was a free man? A Yes sir.
Q But your mother was a slave? A Yes sir.
Q Did she come back with you and your sister? A Yes sir.
Q What business did yousay your father did? A He dug wells and worked around for people.
Q And he brought home money and work of you back? A Yes sir.
Q In what year did he bring you and your sister? A 1866 when we came back here.
Q What time of the year was it? A It was in the Fall of the year.
Q Where did your sister locate when she came back? A She located down there close to Chouteau Junction.
Q Were you in the same neighborhood with her? A Yes sir, right in the same yard.
Q Have you been a plantation cook about Fort Gibson? A I was on Dale Sherry's place.
Q On a farm? A Yes sir.
Q Dale Sherry not Cale Starr, is he? A Dale Sherry.

Q Any of his children living? A I don't know.
Q Is his wife living? A I don't know that, neither I have been living in Sequoyah.
Q Are there any of the people who were living there on that place at that time living now? A No sir, not on that place; there wasn't no one there but us working the farm, rented the place.
Q You and your sister were on thatplace ? A Yes sir.
Q But there were no colored people on it but just you and your people? A Yes sir.
Q Well now how many people were in your familt at that time, you and your sister and who else? A Me and my sister and our husbands.
Q Was her husband, then living, Sam Barnes? A Yes sir.
Q And your husband, is he living? A Yes sir.
Q Has your husband testified in your case? A No sir.
Q Why didn't you bring your husband? A He is in here some where.
Q Your sister's husbandis not here is he? A No sir.
Q Did your husband go around the country digging wells after he got back? A My father.
Q Was he with you when you got back? A Yes sir, brought us back.
Q Did he go around the country digging wells?A No sir, he didn't dig any wells after he got back.
Q What did he do? A He farmed.
Q Was he living with you there on Mr. Starr's place? A Yes sir.
Q Your father is dead now? A Yes sir.
Q Who had farms there in that neighborhood? A Old Uncle Jack Campbell.
Q Is he alive? A No sir, he is dead.
Q Anybody else? A Yes sir, Dave Choate had a place right there joining.
Q Named Chouteau? A Named Choate, Cherokee.
Q Is he living? A I don't know.
Q Do you know anybody who is living now that was living in that neighborhood there and knew you all? A Yes sir.
Q Well give their names? A Eliza Franklin, it aint Franklin now; that was her name when I knew her; her name is Eliza McCrady now.
Q Is she about the room now? A No sir, she is living down in Sequoyah; she is aCherokee.

Examined by Cherokee Representative, W.W.Hastings:

Q Where were you married? A We married in slavery time; we married in the Choctaw Nation.
Q Your husband came back with you also? A Yes sir.
Q I thought you said your father brought you back? A Well my father was the leading one brought us back.
Q Where was your sister married? A She was married here under the Cherokee law.
Q She wasn't married down there? A No sir.
Q Her husband didn't come back with her? A No sir.
Q Where was Robert Barnes born? A Down in Sequoyah.
Q On what place? A Right there on the Cale Starr place.
Q That's how far from Ft. Smith? A About 40 miles.
Q And by the river, on this side? A Yes sir.
Q You say Cale Starr was living there at the time? A No sir, old man Ellis Harlin was living there.
Q He had a family? A Yes sir.
Q One of them named Emma? A Yes sir.
Q She was living there? A Yes sir.
Q Another one named Ruth? A That's right.
Q She was living there at that time? A Yes sir. And a boy named Oce.
Q And Oce was living there at that time? A Yes sir.
Q He knew your people now? A Yes sir.

Examined by Commissioner Brockinridge:

Q How many children have you? A I have got six.
Q Where was your oldest child born? A Born in Sequoyah.
Q After you got back ~~xxxx~~? ~~xxx~~ after the war? A Yes sir.
Q How old is that child? A About 37 years old.
Q How long ~~had~~ you been married down in the Choctaw Nation when you got back? A We married time of the war.
Q Along towards the last of the war? A Yes sir.
Q How long had you been married when your oldest child was born?
A I couldn't go to work to tell you about that.
Q Been several years had it? A Yes sir.
Q How long had you been back here when your oldest child was born?
A She was born in '67.
Q How long had you been back here when she was born? A Well I say she was born in '67.
Q Who attended on you at the time of the birth of that child?
A The woman who attended on me is dead, Mandy Benton's mother.
Q Some of the old people living who remember when that child was born? A No sir, none that I know of; there wasn't no colored folks in there hardly then.
Q You don't remember how long you had been back in the Cherokee Nation when that child was born? A Yes sir.
Q How long? A She was born in '67.
Q I didn't ask you what year she was born in, I asked you how long you had been in the Cherokee Nation when that child was born?
A Well I tell you she was born the year after I come back here.
Q The next year after you got back? A Yes sir.
Q Was the child born in the spring, summer or fall? A Born in January.
Q And what time of the year was it you got here? A I got here in the fall of 1866.
Q In the fall before the January this child was born? A Yes sir.

COLLY ALBERT, being sworn and examined by Commissioner Breckinridge, testified as follows:

Q Give me your full name? A Colly Albert, is the way I always sign my name.
Q How old are you? A I am 61.
Q What is your post-office? A Melvin.
Q In what district d you live? A I live in Illinois District.
Q You want to give some testimony in the case of Robert Barnes do you, who has applied for enrollment? A Well, I can give some.
Q Well, you are not here to apply for your own enrollment are you?
A No sir, not now; not at present.
Q Are you the husband of Martha Albert? A Yes sir.
(Com'r: Her case is D 42.)
Q Do you know Robert Barnes? A Yes sir.
Q How long have you known him? A I have been knowing him ever since he was born.
Q How long have you lived in the Cherokee Nation? A I have been raised and born here in the Cherokee Nation.
Q Were you a slave in ~~the~~ old times? A Yes sir.
Q To whom did you belong? A Old lady Bushyhead, Nancy.
Q Where were you during the war? A I was down on Red River.
Q In the Choctaw Nation? A Yes sir.
Q Where did you live before that, on Nancy Bushyhead's place?
A Yes sir.
Q In what district was that A In Goingsnake District.
Q You married your wife, Martha, down there did you, on Red River?
A No sir, I married her after I come back; I lived with her but I didn't marry her until after we come back to the Cherokee Nation.
Q How long after you came back to the Cherokee Nation was it before you and she married? A About three years I guess; I joined the church and they wouldn't let me live in the church until I married.

Q Did you and she have any children until after you were married?
A Yes sir, she had two.
Q Two before you were married? A Yes sir.
Q That is, before you were married the way the church made you marry? A Yes sir.
Q You knew your wife's sister, Jennie? A Yes sir.
Q She was married to Sam Barnes was she? A Yes sir.
Q Did you come back with your wife after the war when she came from the Choctaw Nation? A I come a little ahead of her; a few days.
Q Just a few days? A Yes sir, she come with her father.
Q Did her sister Jennie come with her? A Yes sir.
Q She and your wife came together? A Yes sir.
Q Her sister Jennie was the mother of this Robert Barnes? A Yes sir.
Q What were you doing down there in the Choctaw Nation, farming?
A Yes sir, worked on the farm awhile.
Q Well you were working on a farm all the time weren't you? A Well sometimes I was driving a team.
Q Did you make a crop of cotton? A No sir, corn crop.
Q Where did you locate when you came back from the Choctaw Nation? A Near Cherokee Station there on Caleb Starr's place.
Q What time of the year was it you got back there? A It was along in August sometime in August, I disremember just what day in August it was, but we got back there in August.
Q You think that was in what year? A 1866.
Q What fixes that on your mind? A Well I kept count of how long the war run; I knowed what year the war come in on.
Q How long had the war been closed when you came back? A I come back next spring after the war closed.
Q You fixed it on your mind that way? A Yes sir, that's the way it was.
Q You know this woman Jennie Barnes, mother of Robert Barnes, whom did she belong to before the war? A I didn't know who she belonged to; I know who they always said she belonged to; she belonged to same man my wife did.
Q What was his name? A Johnson Whitmire; I never got personally acquainted with them until I got down there on Red River.
Q Was Jennie Barnes older or younger than your wife? A She was youngest, her father and mother said.
Q Was she married there in the Choctaw Nation? A No sir, I don't think she was until we come back to the Cherokee Nation I think.
Q Married after she got back? A Yes sir. As well as I recollect, that's what they told me; I wasn't there when they married.
Q But you were seeing them all the time weren't you? A Yes sir.
Q Did you see her very soon after she was said to have been married? A She staid there with me awhile on the Caleb Starr place.
Q Where were you when she married? A I was on the Caleb Starr place
Q Where was she when she married? A She was over in Ft. Smith, I think, hired out
Q And there is where she married Sam Barnes? A Yes sir, I think so
Q How long was that after you had got back from the Choctaw Nation? A It was about one year I think, not quite a year; it was about six months.
Q She staid with you awhile on the Starr place and then hired to do some work over at Ft. Smith and there married? A Yes sir.
Q And where did she live after that? A Lived up on Lee's Creek there close by me.
Q How long did she stay at Ft. Smith? A I don't know exactly; not very long though; I don't recollect now just how long it was.
Q How long had she been married before you saw her; how long was it after her marriage that you saw her? A It was about two or three months I guess.
Q You saw her two or three months after she was married? A Yessir
Q Where did you see her? A She come over to my house there on a visit/

visit; on the Caleb Starr place.
Q What creek was that you say she lived on at one time? A Lee's Creek.
Q How long had she been married when she began living on Lee's Creek? A She had been married as well as I can recollect, then about four or five years.
Q And she had quit work in Ft. Smith then had she, and gone to live on Lee's Creek? A Yes sir.
Q What was her husband doing all that time? A Why he was farming he went to farming after he came over into the Cherokee Nation.
Q But during that four or five years before he lived on Lee's Creek, you don't know what he was doing do you? A Yes sir, he moved over there and was hired out.
Q Moved over where? A The other side of Ft. Smith in the coal bank.
Q He worked there until he moved up on Lee's Creek? A Yes sir.
Q Now Sam Barnes, her husband, he makes no claim for himself as a Cherokee Freedman? A No sir, none as I ever known of.
Q He was working for wages up there about the coal bank I suppose? A Yes sir.
Q And after working there four or five years he then moved up on Lee's Creek and went to farming? AYes sir, he was living over here when he was working in the bank; he had moved before he went to work over there.
Q What was his wife doing all that time when he was working at the coal bank? A She was working in the field there with me and my folks; they lived about three or four hundred yards from me.
Q You said just now she had come from over there up to Lee's Creek? A She did after they were married.
Q You said she came up there four or five years after they were married, and now you say she had come before that and lived with you: which one of these can I rely on? A I said about five years he lived over here and went back to work the other side of Ft. Smithabout five years after he was married.
~~Q Xxxx

two daughters.
Q What was their names? A Rutha and Emma.
Q They were living on the place at that time? A Yes sir.
Q Did he have any boys? A Yes sir, had one named Oce.
Q What was the other one's name? A I forget the other's name; he didn't come around there none, the other one didn't.
Q They were living there at that time? A Yes sir.
Q They were single and unmarried and living there on the place at the time with their father? A Yes sir.
Q All of these children that you have mentioned? A Yes sir, all but Oce; I don't know whether he was married or not; he just come in and out; I don't know what he was; the girls though were single.

Com'r Breckinridge: The applicants states that he has lived in the Cherokee Nation all his life; he is not thirty-three years of age, but he is not identified on the roll of 1880 nor upon the roll of 1896 nor upon the Kerns-Clifton roll; his mother is said to have died some ten years ago, and she is not identified on the roll of 1880; the testimony relating to his mother tending to establish that she came to the Cherokee Nation within the period required by the treaty of 1866, is of an indefinite character; a sister of the applicant's mother, is on Cherokee Freedman doubtful card number 42, and the testimony of the husband of that sister, Colly Albert, is conflicting in its character; while this application is not established in any satisfactory manner, yet at present it will be placed upon a doubtful ard for the further consideration of the evidence, and the final decision of the Commission will be made known to the applicant at his post-office address.

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M.D.Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M D Green

Subscribed and sworn to before me this April 29, 1901.

Commissioner.

F.D. 181

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

FILED
MAR 15 1901

ACTING CHAIRMAN

Indian Territory

Cherokee Nation.

I, A. S. McRae, Attorney for the within named applicant do hereby accept service of the within notice to take testimony this 13th day of May 1901.

W. S. McRae

Atty for within named Applicant.

# NOTICE!

In the matter of the application of Nancy Bonkumdal for enrollment as a Cherokee Freedman.

Case No. D 101

To Nancy Bonkumd

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on the following dates, to-wit: May 21, & 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 13 day of May 1901.

Bell, Hastings & Davenport

Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District.

I do solemnly swear that I delivered a true copy of the within notice to .....

on the ..... day of ..... A. D. 1901.

Subscribed and sworn to before me this ..... day of ..... 1901.

..... Notary Public.

COMMISSIONERS
HENRY L. DAWES.
JAMES BIXBY.
THOMAS B. NEEDLES.
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, Indian Territory, May 15th, 1901.

Received of the Commission to the Five Civilized Tribes one copy of the original testimony in the matter of the application of Nancy Borkum et al for enrollment as Freedmen of the Cherokee Nation; one copy of the testimony in the case of Robert Barnes; one copy of the original and one copy of the supplementary testimony in the case of Martha Albert etal., the testimony in the case of Barnes and Albert haing been made a part of the record in this case.

A S McRea.

Attorney for Applicant.

Cherokee F. #D101.

To be filed with case of Nancy Berkum, et al., C. F.D.#101.

# S U P P L E M E N T A L  T E S T I M O N Y .

F.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., July 31st, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of Martha Albert, et al., as Cherokee Freedmen:

RUTH HUNT, being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
A. S. Mallen, Attorney for applicants;
W. W. Hastings, Cherokee Representative.

Q What is your name? A Ruth Hunt.
Q How old are you? A 54.
Q What is your post office address? A Vinita.
By W. W. Hastings: Mrs. Hunt, what was your maiden name?
A Harlin.
Q What was your father's name? A Ellis Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Where did you go during the war of the Rebellion?
A Fort Smith, Arkansas.
Q After the war did you return to the Cherokee Nation? A Yes, sir.
Q When did you return to the Cherokee Nation? A 1867.
Q What time in the year? A It was either February or March. I don't remember which.
Q But '67? A Yes, sir.
Q Did any colored people return with you to the Cherokee Nation when you came back? A No, sir.
Q Did you return with your father? A Yes, sir.
Q To what point did you return? A About four miles this side of Fort Smith, on the line of Arkansas, about a quarter of a mile from the line, Arkansas line.
Q Did you know a colored woman by the name of Martha Albert who is the wife of Sally Albert? A There was a man worked for us we always called Albert, I don't know what his other name was, his wife was named Martha; he worked for us that summer we come back.
Q The summer of '67? A Yes, sir.
Q Did they return with you? A No, sir.
Q Were they over there on the place when you returned? A No, sir.
Q Do you know where they came from? A No, sir, I don't, but Pa went over in Arkansas somewhere and hired the man to come and work, but I don't remember where he got him. He had a man at work for us and the man quit and he went away somewhere and got this man, he got him in Arkansas somewhere towards Van Buren, but I don't know.
Q You brought no colored people back with you? A No, sir.
Q Did these people claim at that time to be Cherokee Freedmen?
A I never heard it; if they did I don't remember anything about them ever claiming it.
Q Do you know what became of them after they left your place?
A No, sir, I never seen or heard tell of them until they was taken the roll at Vinita here before.
Q In 1880? A Yes, sir, that is the only time I have ever heard of them since.
Q Were you a Cherokee citizen by blood? A Yes, sir.
Q You resided at Vinita? A Yes, sir.

CROSS EXAMINATION BY A. S. MALLEN.

Q Mrs. Hunt, did you know the applicant, Martha Albert, before the war? A No, sir.

Q Do you know her at all? A I don't know her only just as far back as 1867; I remember there was a man worked for us by the name of Albert, we called the woman Martha and the man Albert, they worked for us here during the summer of 1867, that is all I know about it.
Q You don't know whether she is the one who belonged to Johnson Whitmire before the war or not? A No, sir, I don't know; I never heard her say that she belonged to the Nation before the war.
Q Did you know the Whitmires? A Yes, sir.
Q Did you know any of their slaves? A I can't remember them I know them but I can't remember them.
Q Now, this man Albert that worked for your father, you don't know his given name? A No, sir, we just called him Albert, and I don't remember what his other name was.
Q You don't know whether Albert was a given or surname? A No, sir; I don't know which it was.
Q Would you know the same persons if you would see them again?
A I don't think I would, it has been so long.

Re-direct examination by Mr. Hastings:

Q How far did you live from Johnson Whitmire before the war?
A About ten or 12 miles. I knew the family and I guess knew the slaves, I don't remember them now.
Q I believe you said you were 54, that would make you be born in 1847; you would be about 14 years old when the war come up?
A Yes, sir.
Q I was going to ask you if you lived in ten or twelve miles of Johnson Whitmire and if this woman had belonged to him before the war, it it quite likely you would have known that in 1867?
A It seems that she would have known people that I did and would have said something about it. I went to school with Whitmire's children and have been at Ben Whitmire's house and I guess would remember some of the names if I heard them recalled, but I can't remember them now.
Q You didn't recognize this woman? A No, sir, I would not recognize her now.
Q You didn't recognize her then as belonging to Johnson Whitmire?
A No, sir.
Q Never heard her remark about it? A No, sir.

EMMA FINLEY, being duly sworn by Commissioner T. B. Needles, testified as follows: Direct examination by Mr. Hastings:

Q What is your name? A Emma Finley.
Q What is your age, Mrs. Finley? A 51.
Q What is your post office address? A Tahlequah.
Q Are you a Cherokee by blood? A Yes, sir.
Q Recognized citizen of the Cherokee Nation? A Yes, sir.
Q Mrs. Finley, what was your maiden name? A Emma Harlin.
Q You are a sister of Mrs. Hunt who has just testified?
A Yes sir.
Q What was your father's name? A Ellis Harlin.
Q What was your mother's name? A Nancy Harlin.
Q Did you come back with your father after the war to the Cherokee Nation? A Yes, sir.
Q When did your father die? A '67
Q Where did he die? A Down in Sequoyah district, near Fort Smith.
Q To what point in the Cherokee Nation did you return after the war?
A Down on the line close to Fort Smith.
Q About how far from Fort Smith? A Four miles.
Q I ask you if any colored people returned with you? A No, sir.
Q What time did you return to the Cherokee Nation? A In '67.
Q What time in '67? A I am not positive what month it was, it was either February or first of March, I think.

Q Did any colored people return with you? A No, sir, there was not.
Q Do you remember a colored woman by the name of Albert, Martha Albert? A Why, yes, I remember her, she didn't come back with us.
Q She didn't come back with you? A No, sir.
Q In What do you first remember of having seen her?
A I think it was the last of March or first of April, I am not positive which, but it was along about that time.
Q It was after you returned to the Cherokee Nation after the war?
A Yes, sir, after we came back in '67.
Q Do you know where she came from? A In the State some place.
Q She worked for you that season, or part of the time?
A Part of the time.
Q She didn't come back with you or your father? A No, sir.
Q Do you know whether she claimed at that time she was a Cherokee slave? A No, sir, she didn't; if she did I never heard her. Never claimed at all.
Q Mrs. Finley, did you know Johnson Whitmire before the war?
A No, sir, I had heard of him but I was not acquainted with him.
Q You were young? A Yes, sir.

Cross examination by A. S. McKee.

Q Mrs. Finley, where did you all go to before the war, did you leave the Nation? A Before?
Q Yes. A No, I left the Nation after the war began.
Q Left during the war? A Yes.
Q Where did you go to? A Fort Smith.
Q Did you know Martha Albert at that time? A When I left the Nation?
Q Yes? A No.
Q Where was the first time you ever saw Martha Albert? A In '67.
Q Where at? A In Sequoyah District.
Q At what time of the year was it? A It was in the last of March or first of April, I am not sure which.
Q In 1867? A Yes, in '67.
Q Do you know whether she had ever lived in the Nation?
A No, I don't.
Q Did her husband work for you all? A Yes, in '67.
Q What was his name? A Colly, that is all the name I ever heard.
Q Just knew him as Colly? A Yes, that is all we called him.
Q Do you know whether or not they were slaves? A No, I don't know.
Q And you say they came here from the State of Arkansas to work for your father in 1867? A Yes, s
Q You don't know whether or not of your own knowledge that had been in the Territory prior to that or not? A No, I only know that he went over in the State and got them.
Q What were they doing in the State? A I don't know.
Q Don't know whether they were living there or not?
A I suppose they were living there, I went there and got them.
Q Isn't it possible that they could have been ever thereat work?
A It is possible, it is not impossible. I suppose they had every thing they had over there.
Q All their possessions in the State of Arkansas? A Yes.
Q Did they move those possessions over to your father's place when they came there? A Yes.
Q What possessions did they have? A They didn't have much, just what they had in the house and the [illegible] A No.
Q You don't know whether they [illegible] A No.
Q And the first you knew about [illegible] was when they came to your father's place in 1867? A Yes.

HARRY STILL, called as a witness on the part of Applicants being sworn and examined by Commissioner T. B. Needles, testified as follows:

Q What is your name? A Harry Still.
Q What is your post office? A Hayden.
Q What is your age? A Well, sir, I don't know exactly, something over 50.
Q You are a recognized citizen of the Cherokee Nation? A Yes, sir.
Q Freedman? A Yes, sir.
Q Is your name on the roll of 1880? A No, sir.
Q You are a contested citizen? A No, sir.

Direct examination by A. S. McRea:

Q Mr. Still, you are called on to give some evidence in the case of Martha Albert; are you acquainted with Martha Albert? A No, sir, I am not.
Q Did you know Johnson Whitmire? A Yes, sir, I knew Johnson Whitmire.
Q Did you know any of his slave? A Yes, sir, I knowed his slaves, I knowed 'em all, he was a brother of my Master.
Q Did you know this woman Martha? A Martha Whitmire? I didn't know any Martha Whitmire.
Q Did you know Colly Albert? A I know Colly Albert when I see him.
Q Did you know him before the war? A No, sir, I didn't.
Q Did I understand you to first say that you knew Martha Albert, or that you did not know her? A I do not know her; I knew Johnson Whitmire's slaves, but I did not know her.
Q Do you know Eliza McCrady? A No, sir.

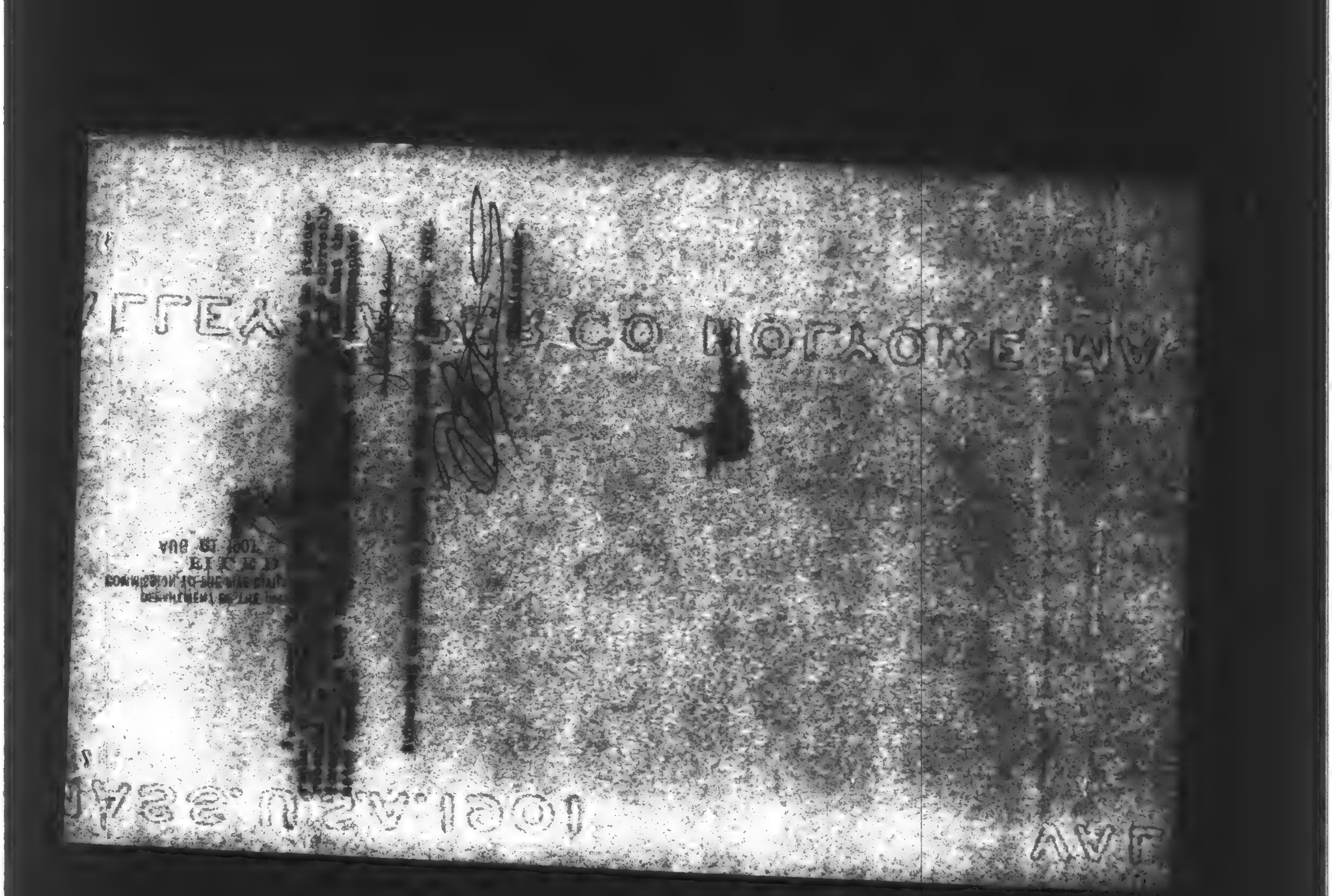
Cross examination by Mr. Hastings:

Q Where did you live before the war? A Lived on Barren Fork at George Whitmire's place.
Q What kin was George Whitmire to Johnson? A Brother.
Q How far did they live apart? A It must have been four or five miles.
Q Are you well acquainted with Johnson Whitmire? A Yes, sir.
Q Are you well acquainted with Johnson Whitmire's slaves?
A Yes, sir.
Q Did you know him to have a slave by the name of Martha?
A No, sir, I didn't knew one by that name.
Q Didn't know one by that name? A No, sir.
Q You lived there in four or five miles? A Yes, sir.
Q If he had one you would have known it? A Johnson had a good many colored people; I knew most of them, I knew all of them, all he raised.
Q This woman claims now to be 54 or 55 years of age, which would have made her 15 or 16 years old when the war come up; you didn't know any Martha Whitmire that was something of that age that belonged to Johnsin Whitmire? A No, sir.
Q How old are you, Harry? A I am something over 50 years old, about 54 as near as I can get at it.

re-direct examination by A. S. McRea:

Q Did Johnson Whitmire own a slave by the name of Charles Whitmire, or Charles Bolen? A If he did I didn't know, he may, I have heard of Charles Bolen, but I don't know who he is.
Q Well, did he own a slave, a family slave, by the name of Nancy?
A Not as I know of, sir.
Q Now, as I understand you to say, Mr. Still, you didn't know all the slaves of Johnson Whitmire? A Yes, sir; I was acquainted with 'em, they was kin to me.
Q You were kin to all them? A Yes, sir, kin by blood and I know them.

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File with Cherokee Freedman, D- 101, Nancy Barkum.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 4, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Testimony on behalf of Cherokee Nation.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

WATT WHITMIRE, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A Watt Whitmire.
Q What is your postoffice? A Westville.
Q How old are you? A 48.
Q What is your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte Whitmire.
Q In what district did your father live before the war?
A Going Snake.
Q Was there any other Johnson Whitmire in Going Snake at that time, that was grown, an old man with a family? A No, sir, not as I know of; there was a Johnson, a son; he is younger than I am.
Q Well, he was born about the time or after the war came up, or when; about how old is he? A He is some thirty odd, some 37 or 8.
Q Did your father own some slaves when the war broke out? A Yes, sir.
Q Do you know whether or not your father or your mother owned a slave by the name of Martha when the war broke out? A No, sir, not as I know of; none by that name.
Q Did your father or mother own a slave by the name of Nancy, a woman? A No, sir, not as I know of.
Q This Martha, according to her statement, would be some 14 or 15 years of age at that time? A No, sir, I don't recollect nary one by that name.
Q You are Johnson Whitmire's son? A Yes, sir.
Q You were living at home at the time the war broke out? A Yes, sir.
By A. S. McRea: Mr. Whitmire, how many slaves did your father own?
A I don't know the exact number.
Q Were you acquainted with the names of all the slaves of your father? A Why I believe I recollect the oldest, I don't know that I recollect the smallest children's names, of all.
Q About what was approximately the number of old slaves? A Well, I will have to count them up.
Q Well, give an approximate statement? A About 12 or 14, or somewhere along there; I don't know just exactly.
Q Did he own a slave by the name of Nancy? A Not as I recollect of; I don't recollect any such name.
Q About how old were you at the breaking out of the war? A I was born in '52; I believe the war broke out in '62, wasn't it; about '61.
Q You were about 9 years old? A 9 or 10 years, somewhere along there.
Q How couldn't he have possibly owned this female girl and you not have any recollection of it? A I recollect all the names from my mind up, but I don't recollect of any such name of Martha. There weren't but two girls, and one was named Mary and one Nannie.
Q They were the only two female colored girls of the ages of 12 or 14 years old? A Well, they were younger than that; Nannie was younger than that and Mary was I reckon maybe one or two years older

than me; I don't know exactly, but I just judge from her size.
Q Well now, do I understand you to say this number of fourteen or fifteen adults, or older slaves, did they have any children? A Oh yes, that included men and women together.
Q Included men and women together? A Yes, sir.
Q Did they have any children? A Yes, sir.
Q Do you remember the names of them all? A Well not of all, I remember the names of some of them.
Q About how many children did each family have? A Well, there was one woman by the name of Fronie had one child named Susie, and there was an old lady named Sukie had two or three, and I don't recollect the names of but one boy, his name was Joe, and this girl Nannie I spoke of was the child of old Aunt Sukie; and there was one by the name of Rachel, I don't recollect just how many children she had, but one or two or three, somewhere along there; they were quite small when the war broke out.
Q That is all the children? A No, sir, I don't recollect just how many children there were in the while family of the darkies, but there was Rachel's children, and Aunt Sukie's children, and Fronie's child, one child, I believe isall I recollect of.
Q Well, where did your father's slaves go during the war? A Well I can't tell you exactly; my understanding is they went north.
Q That they all went north? A Yes, sir, part of the men folks left here before I left the old place, and when I left there I left part of the women folks at home, at the old home place.
Q Leave any of the children? A Yes, sir.
Q Have you any recollection what became of them? A No, sir.
Q Did you ever see any of them any more? A No, sir, never saw any ~~many~~ of them any more at all.
Q Did you go away yourself? A Yes, sir, taken away.
Q Where did you go? A Went from there to Cane Hill, Arkansas.
Q When did you return? A After peace was made; went on from Cane Hill south.
Q Have you any acquaintance with this alleged party to this suit, Martha Albert; are you acquainted with her? A No, sir.
Q Don't know her? A Don't know her at all.
Q How long have you lived in the Cherokee Nation now since your return from Cane Hill; was that the place you went to? A Went from the Nation to Cane Hill and from Cane Hill went south in the Choctaw Nation.
Q Then when did you return from the Choctaw Nation to the Cherokee Nation? A Returned in '67.
Q To what point? A Back at the old home place in Going Snake district.
Q You have lived here continuously ever since? A Yes, sir.
Q Were you extensively acquainted with the colored people in and around, or rather in Going Snake district? A Yes, sir.
Mr. Hastings: Now as I understand you, Mr. Whitmire, you stated that you remember all of the slaves that were of your age and older, but those that you don't remember were those that were younger or smaller? A Yes, sir; I remember some that were younger than I was, them that I called a grand while ago.
Q You are positive your parents didn't own a slave by the name of Nancy? A No, sir, none that I know of, there wasn't any Nancy on the place, and I believe I can call the names of all the women.
Q Are you positive your parents didn't own a girl older than yourself named Martha? A No, sir, wasn't any on the place named Martha.

J. W. ALBERTY, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A J. W. Alberty.

Q Mr. Alberty, what is your age? A Well, I am 67 years old.

Q What is your postoffice? A My postoffice is Westville, Indian Territory.

Q What district do you live in? A I live in Going Snake district.

Q You a Cherokee by blood? A Yes, sir.

Q Mr. Alberty, where did you live in the Cherokee Nation before the war? A In Going Snake district.

Q Near where you now live? A Yes, sir.

Q Did you know Johnson Whitmire? A Yes, sir.

Q Did you know him before the war? A Yes, sir.

Q How far did you live from him? A Well, it was about ten or twelve miles, I reckon we called it.

Q Did you know his family? A Well, yes I knew his family.

Q This witness here before, named Watt Whitmire, was he a son of Johnson Whitmire? A Yes, sir.

Q I will ask you if you were acquainted with a colored man by the name of Charles Boland before the war? A Yes, sir, he was a mixed blood, free.

Q I will ask you if you knew a colored woman by the name of Nancy Whitmire, alleged to have belonged to Johnson Whitmire before the war?

A Yes, sir, I knew her.

Q Now, if you know what became of Nancy Whitmire and Charles Boland I wish you would make a statement to the Commission? A The Whitmire boys sold Nancy to a man named Dillingham, and he moved right across the line from where I lived, five or six miles, and owned them there until he moved off to Texas, Charles Boland and Nancy: I knew them better after Dillingham got them than I did before.

Q Who sold them to Dillingham? A The Whitmire boys, George Whitmore and Johnson Whitmire: they were brothers and they sold them at the time they divided up the property.

Q Now about how long before the war was that they sold them, about what year? A I reckon it must have been in '47 or '8, I haven't got the dates, I wasn't expecting anything of this kind, and I didn't get the dates, but it must have been in '47 or 8.

Q What was Dillingham's citizenship? A He had none.

Q Was he a white man or Cherokee or what? A He was a white man and lived in the state.

Q What state? A Arkansas.

Q Lived across the line in the State of Arkansas? A Across the line, yes, sir, in the State of Arkansas.

Q Do you know what finally became of him out there? A Mr. Dillingham, in about '50 or '51 moved to Texas and carried the family, and Boland went with them, he was free but he followed this family off to Texas.

Q Do you know whether he had Nancy for a wife or not? A Yes, Boland had this Nancy for a wife, and claimed the family, and when Dillingham carried the family off he went with them.

Q How far did this man by the name of Dillingham live from you?

A About five or six miles.

Q Now how far did you live from the Cherokee line up there?

A Well about that time I only lived about half a mile, right at it.

Q On the west side of the Cherokee and Arkansas line? A On the west side of the Cherokee line.

Q And Dillingham lived on the Arkansas side? A On the Arkansas side, just over near what is called Dutch Town or Salem.

Q He laid no claim to Cherokee citizenship? A No, sir, not a bit; he had a son that was adopted, but the old man had none.

Q And I believe you stated that along about '50 Dillingham carried these people to Texas? A He carried them to Texas.

By A. S. McRea: I understand you to say Johnson Whitmire sold Nancy? A Yes, sir.

Q Nancy Sheppard then did belong to Johnson Whitmire? A Yes, sir, she did belong to Johnson Whitmire; there were two brothers of the children, George and Johnson Whitmire, and they owned an interest in them and they both sold their interests.

Q About what year was that? A Well sir, I can't positively say, but it was in or about '47 or '8; I have nothing to guide me by.

Q Do you know Martha, the child of Nancy? A No, sir, they were all small when they went off, I don't know any but a boy they called Ellis; Dillingham brought him back with him just a little while before the war came up.

Q Did Nancy have children when Johnson sold her? A Yes, sir.

Q Did he sell the children with her? A Yes, sir.

Q Nancy's whole family was sold? A The whole family went, yes sir.

By A. S. McRae: Mr. Alberty, where do you live? A I live in the eastern part of the Cherokee Nation here.

Q And you say Johnson Whitmire sold Nancy, the alleged mother of the applicant, Martha Albert, in 1847? A I didn't say the time he sold her, because I don't know that, he sold Nancy, Charles Boland's wife to Dillingham, and the children, but I don't know nothing about Martha at all, I didn't say the mother of her, but if she is the daughter of Nancy, why she - -

Commissioner: Was sold with the balance, was she? A Yes, sir, sold with the balance; the whole family was sold.

A. S. McRae: To whom did you say they were sold? A Dillingham.

Q Where did he live? A He lived in Texas.

Q Do you know of your own knowledge that this woman, Nancy, went to Texas? A Yes.

Q How do you know that? A I saw them start.

Q Did you see them arrive? A I didn't see them arrive in Texas, but I saw them start on the road.

Q Do you know whether or not, of your own knowledge that they arrived there? A No, sir, I can't say that, but I guess from all the circumstances they did.

Q What fixes it on your mind so very definitely that they were sold in '47? A Well, just as I said before, I said I wasn't positive about that, but it was in or about that time.

Q For how much was she sold? A Well I can't exactly say now what they did bring, because they got some horses and some cattle and some money.

Q How many horses? A I can't answer that question.

Q How many cattle? A I don't know.

Q How much money? A Well, I don't know that that would amount to anything, because it was satisfactory to them.

Q You say they were sold and we want to know what was the status of the sale? A Well I don't know the amount that they got for them, I can't say.

Q Did you see any money exchanged? A No, sir, but after that they changed hands, the darkies went.

Q It is true, they could possibly have changed hands without any sale? A Well handly them days.

Q Then in so many words, you don't know whether that was a bona fide sale or not of your own knowledge? A Well, of my own knowledge, I would have to say it was a bona fide sale, or else he wouldn't have taken them out of the Cherokee Nation.

(Foregoing answer read by stenographer at request of attorney for applicant.)

Witness: Yes, sir.

McRae: He said you would suppose it was a bona fide sale.

Commissioner: Was that your answer?

Witness: A Yes, sir.

Examination: How long after the sale was it before Mr. Dillingham took them to Texas? A It must have been 2 or 3 years, they lived right there close neighbors to us two or three years after they

bought them.

Q With whom? A With Dillingham, in the State of Arkansas.

Q Then when the sale was made Dillingham at that xxx time was living in Arkansas? A Yes, sir.

Q Is your first statement that he was living in Texas correct, at the time of the sale? A No, sir, I didn't make that, he was living in Arkansas and moved to Texas, I said, in about '50 or '51 and taken them with him in about '50 or '51.

McRea: I would like to examine the face of the record.

Commissioner: The record shows for himself. If the witness contradicts himself the record shows it. I think the witness did state when you asked him where Dillingham lived, that he lived in Texas, but you didn't specify the exact time when he lived, but the witness stated plainly now at the time Dillingham bought the slaves he lived in Arkansas and moved to Texas a few years after.

McRea: Did you ever see Nancy Whitmire any more? A Well, I never saw her after he moved off to Texas with her.

Q Are you acquainted with Martha Albert, the applicant in this behalf? A No, sir.

Commissioner: You don't know Martha at all then? A No, sir: well there were several children, but I don't recollect their names; there were several children then only they were small.

Q You have never seen the averred mother of Martha, Nancy, after Dillingahm took her to Texas? A No, sir.

McRea: And you don't know whether or not this woman, Martha, was one of the number of these children that accompanied the mother, Nancy, to Texas or not? A No, sir, I don't.

Commissioner: Did Nancy have children to your recollection?

A Yes, sir.

Q You don't recollect how many? A Well, no I don't, there was three or four, four children, there might have been more and might have been less.

Q Know whether they were boys or girls? A There was one boy.

Mr. Hastings: I believe you states that these children that she had went with her? A Yes, they all went with her.

McRea: About what was the age of these children? A Well, they were small, they were not very large.

Q 3, 4, 5, 6 xxxxx or 10 years, something like that? A Well, he must have been 6 or 7 or 8 years old, maybe 10, I can't state that.

Q Was that a girl or a boy? A I think the oldest one was a girl.

Commissioner: This testimony will be made part of the testimony in the cases, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152, D-146, D-182. Attorney McRea for applicant objects to testimony being filed in the case of Robert Barnes et al., and the objection is overruled.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 5th of September, 1901.

Commissioner.

File with Cherokee Freedman D. 101, Nancy Borkum.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 11, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Supplementary evidence introduced on behalf of applicants.

Appearances:
A. S. McRea, attorney for applicants:
W. W. Hastings, of counsel for Cherokee Nation.

The Commission: Now Mr. McRea, state briefly what you desire to prove by this witness.

A. S. McRea: Applicant desires to offer testimony in behalf of herself et al., by Sam Barnes, showing that mother of applicants did return to the Cherokee Nation within the time of the treaty stipulations, and that so far as the sale of she and her mother to one Dillingham, it is untrue.

The Commission: When you speak of the applicant, I suppose you mean Martha Albert?

McRea: Yes, Martha Albert and others.

Mr. Hastings: The Cherokee Nation objects to the applicant being allowed to introduce any testimony in this case on the question of the return of any of the applicants, for the reason that applicants introduced their testimony on both ownership and return, and the Cherokee Nation introduced testimony on both, and the only testimony which can legally be introduced by the applicant now as testimony in rebuttal of new matter brought out by the Cherokee Nation in its testimony.

The Commission: The objection of the Cherokee Nation will be noted.

S. B. BARNES, appearing before the Commission and being duly sworn and examined, testified as follows:

A. S. McRea: Give us your name, Mr. Barnes? A S. B. Barnes.

Q Your age? A About 57, going on 58.

Q Postoffice address? A Benge.

Q Mr. Barnes, are you acquainted with the applicant, Martha Albert? A Yes, sir.

Q How long have you known her? A I have known her going on 37 years.

Q Do you know whether or not she was a slave in the Cherokee Nation before the war of the rebellion?

Mr. Hastings- I object to that, both because the very testimony itself shows that he didn't know that; said he hadn't known her but 37 years.

Commission: Ask him the question.

Q Where was she when you first knew her? A She was down here right close to Cherokee.

Q Where is that? A That is down right on the line, at the Cherokee Junction.

Q Was that in the Cherokee Nation? A Yes, sir.

Q Did you know her mother? A Yes, sir.

Q What was her mother's name? A Nancy.

Q How long had you known the mother? A I got acquainted with her in '68.

Q Where was she when you first met her? A I met her down there.

Q In the Cherokee Nation? A Yes, sir.

Q Do you know whether or not they went out of the Cherokee Nation

or not?

Mr. Hastings: He says he never met them till '64 and '65; you ought to know that he can't testify to that.

McRea: He might have heard: we have been taking hearsay testimony.

Commission: Answer the question.

A I don't know.

Q Did you ever hear of the mother of your wife, Sarah Barnes, having been sold to a man by the name of Dillingham?

Mr. Hastings: Objected to by the Cherokee Nation on the ground of hearsay.

Commission: Ask him if he knows.

Q Do you know? A No, sir, I don't know it.

Q Did your wife ever tell you they were sold.

McRea: What his wife told him is admissable.

Mr. Hastings: Objected to by the Cherokee Nation on the ground that it is clearly inadmissable, it being hearsay testimony, and a declaration in interest of the party.

Commission: Let him answer the question.

Q Did your wife ever tell you whether or not she and her mother were sold to Dillingham of Arkansas? A No sir, she never did.

Q I will ask you if you and your wife ever had any conversation pertaining to her citizenship?

Mr. Hastings: Objected to by the Cherokee Nation for the reason that it is clearly hearsay and inadmissable.

McRea: That is not hearsay testimony.

Commission: I will let him answer the question.

Mr. Davenport, Cherokee attorney: I will object on the ground that he can't testify for or against his wife, under the rules of law. I think I recollect that the Commission has served notice that it would follow the ordinary rules of evidence.

McRea: The Commission served notice that it would not confine itself to the different rulings and technicalities of law in trying testimony in this matter.

Commission: Go on with the examination, Mr. McRea.

(Question read to witness by stenographer.)

A Why of course, she met the John Chambers Court at Tahlequah.

Q Where did you marry your wife? A Marry her; we were engaged here in the Cherokee Nation but we were married at Fort Smith.

Q She was living in the Cherokee Nation when you courted her?

A Yes, sir.

Q Now when did you marry her? A I married her in November, '66.

Mr. Hastings: Where did you live before the war? A I lived in Texas.

Q What county? A Fannin County.

Q What was your owner's name? A Higginbotham.

Q What was his first name? A Thomas Higginbotham.

Q What was the nearest town to you? A Bonham.

Q Did you know Jerry Starr down there? A No, sir.

Q Did you see your wife down there? A No, sir.

Q You didn't? A No, sir.

Q Did you see Nancy Whitmire, or Nancy Boland, down there? A No, sir.

Q How Martha Albert? A No, sir.

Q How old are you? A I have turned 58 years old.

Q What is your father's name? A My father, Bob Barnes.

Q When did you leave Texas? A I left Texas directly after the war ended.

Q Well, did you make a crop down there the year the war ended?

A I wasn't big enough. I didn't make no crop.

Q Who were you living with? A I was living with my old mistress.

Q She wasn't a Cherokee? A No, sir.

Q Well, did you make a crop with your old mistress, or for her, [illegible]? A Yes, sir.

McRea: I object to all that; it is irrelevent to the question at issue.

Commission: Answer the question.

Q You made a crop for her you said? A Yes, sir.
Q The year the war ended? A Yes, sir.
Q How then you stayed there then that year? A I left there just as the war was up.
Q I thought you said you made a crop there? A I did.
Q Then you laid that crop by, did you? A The war came to an end in the spring of '65 if I understand anything.
Q Well, how did you come to leave Texas and who did you go with?
A I came by myself.
Q Just alone? A Yes, sir.
Q Came afoot? A No, sir.
Q How did you come? A I had a horse.
Q Well, where did you come to? A I came to Fort Smith,
Q You had never been to Fort Smith before? A No, sir.
Q You had never heard of Fort Smith in your life before? A Oh yes sir, I hadn't been dead I don't reckon, I was a man.
Q How far below Fort Smith did you live when you lived in Texas?
A From Fort Smith?
Q Yes? A You mean just out on the river?
Q In Texas? A It is about 200 miles.

McRea: I object to that, the question is misleading in its nature, and I object to it.

Commission: He has already answered the question.

Q You came direct to Fort Smith? A Yes, sir.
Q Who did you work for there? A I worked for Bill Belt, five miles out south of town.
Q How long did you work for him? A I worked there a couple of weeks, or about a week, or couple of weeks.
Q Then where did you go? A I crossed over here in the Cherokee Nation.
Q What induced you to leave down there and leave your folks and go to Fort Smith at that time? A Just because I had a notion to go to Fort Smith.
Q Then what induced you to leave Fort Smith after being there only two weeks and go over on the Nation side? A Just because I wanted to go.
Q You didn't know anybody over there, did you? A No sir.
Q You had never seen a soul? A Of course I had seen people.
Q You had never seen one of them over there at Fort Smith?
A Not from across the Cherokee Nation side, across the river; why I saw people down in Fort South out of the Cherokee Nation.
Q Who did you meet that lived on this side of the river, at Fort Smith? A I met Tom Stonecrod and Mrs. Franklin, I don't know how many people I didn't meet.
Q Whose place did you go to on this side of the river first? A I was at Mr. Stonecrod's place the first place I was at, right on the line.
Q How long did you stay there? A I didn't stay there but an hour or two.
Q Then where did you go? A I went back to town.
Q How long did you work there in town? A I don't know exactly how long.
Q A year? A I don't know exactly how long I worked in town.
Q Six years? A I might not have worked there more than, two hours, I don't know.
Q Don't know whether it was an hour or six years? A Yes, sir, I do know how long.

McRea: He has answered that he don't know.

Commission: Let him answer the question.

Q About how long? A I worked there two or three different times,

sometimes I would be in town a week and sometimes not but a day or two and sometimes two or three days.

Q Where were you making headquarters, or home? A I made headquarters sometimes out at Bill Belt's and after that I worked for Tom Stoneroad some right on the lin of the Cherokee Nation.

Q How long did you say a while ago you had been married? A I said I married in November, '66.

Q How many years did you say that was? A I didn't say nothing about the years.

Q Who married you? A I was married by the Clerk.

Q What was his name? A I don't know his name.

Q Clerk of what court? A Clerk of the Court there, at Fort Smith.

Q On the Arkansas side? A Yes, sir.

Q You got a license over there, and he married you? A I think I got license.

Q Now what is your full name? A Sam Barnes is my full name.

Q What is your wife's name? A Her name was Jennie.

Q Jennie what? A Jennie Boland.

Q She is a sister to Martha Albert? A Yes, sir.

Q Younger than Martha? A Yes, sir.

Q Have you ever been married before? A Yes, sir, had been married twice before.

Q Where had you been married? A In Texas.

Q What was your first wife's name? A Anna.

Q She dead? A Yes, sir.

Q What was your second wife's name? A Name was Mandy.

Q What year was it they had that investigation, that Chambers Court you speak of? A That was in '78.

Q Was your wife admitted or rejected? A Must have been rejected by us having to be here.

Q Did you make a statement up there before that court? A Yes sir.

Q You never saw your wife before the war? A No sir.

McRea: Did you see the mother, Nancy Boland, of your wife and Martha Albert, here in 1866? A I seen her here, yes sir.

Q In the Cherokee Nation? A Yes, sir.

Q Is she living now? A Who is that?

Q The mother, Nancy Boland? A Oh no, she died in '66.

Q Where was she buried? A Buried on this side the river there somewhere.

Q In the Cherokee Nation? A Yes, sir.

Q Did you see the father, Charles Boland I believe was his name? A Yes, sir.

Q In '66 here in the Cherokee Nation? A Yes, sir.

Q Is he alive now? A No, sir, he is dead.

Q When did he die? A He died in '78.

Q Where was he buried? A He is buried on Hags Creek.

Q In the Cherokee Nation? A Yes, sir.

Mr. Hastings: On whose place is Nancy Boland, the mother of Martha Albert, and wife of your wife, buried; who owns that place now?

A She was buried at that was called the Jack Campbell graveyard, my wife.

Q This Nancy Boland, where is she buried? A She is buried I think at Mrs. Franklin's graveyard.

Q Do you know it? A That is where I was told she was buried.

Q What time did she die? A She died in '66.

Q Spring, summer or fall, before you married or after? A Just before I married.

Q Did you ever see her? A Seen her many a time.

Q In Texas? A No sir, never seen her in Texas.

Mr. Hastings: Notice is hereby served on the attorneys

in the case of Martha Sheet and the referred cases, that the Cherokee Nation desires to introduce testimony in them on Friday, the 13th inst., between the hours of eight in the morning and five in the afternoon.

Nolan: The applicants will on said date introduce additional testimony in the case at bar.

Commissioner: This testimony will be filed in the following Cherokee Freedmen cases: D-42, D-146, D-182, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152.

.....

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 13th of September, 1901.

Commissioner.

File with case of Nancy Barkum, et al., C.F.-D.#101.

Supl. C.F.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 17, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen, introduced on the part of the Cherokee Nation.

APPEARANCES:
W. W. Hastings, Attorney for Cherokee Nation;
A. S. McRea, Attorney for applicants.

J. W. HUGHES, being duly sworn, testified as follows on part of the Cherokee Nation. BY MR. HASTINGS:

Q What is your name? A J. W. Hughes.
Q Post office? A Ramey.
Q What is your age? A 53.
Q Are you a citizen of the Cherokee Nation? A Well my wife and children are, I wasn't married according to the Cherokee laws.
Q When were you married? A I were marri ed in '69, July, '69.
Q Where did you live that year after you were married? A I lived in the Indian Territory on Joe Purdue's place on Webber creek, in a mile and a half or two mile beyond Big Lees creek.
Q That is in Sequoyah district? A Yes, sir.
Q And about how far from Fort Smith, Arkansas? A Well, accordi ng to the line straight through, about eight miles.
Q Do you know Colly Albert, a colored man? A Yes, sir, I was acquainted with him there.
Q Were you acqueinted with his wife, Martha Albert? A Yes, sir.
Q Did you know Martha Albert's father? A Yes, sir, that is what they claimed to be her father.
Q Well, what was his name? A His name was Boldan, I could not tell you what his given name was. He claimed his name was Boldan.
Q Well, he was recognized there as the father of Martha Albert?
A Yes, sir.
Q Did you know Martha Albert's sister, Jennie Barnes?
A Yes, sir, I was well acquaint ed with them, lived in a half mile of them about four years.
Q Did these children do any work for you in these early days, '69 or '70? A Well, in the year of '70 when I was living there on the place they were living a quarter or half a mile below me, I rented a place from Joe Purdue and they were living joining that place, and I hired them to chop cotton for me and also to pcik cotton and work; and do some other work making rails and fixing fence, and I worked there with them two or three years; they worked for me.
Q Did you ever have any talk, or hear any members of this family make any statement as to where they come from and their whereabouts prior to that time? A I have heard Boldan and his daughter, Colly albert's wife, I never have heard Colly speak anything concerning it as I remember at this time.
Q Well, from Boldan or Colly's wife, Albert? A I heard Boldan-

Mr. McRea: I object to anything Boldan said.

Commissioner: Note the objection and answer the question.

A I heard him saying he was in Texas [illegible] he claimed himself to be part Cherokee, if I mistake not, and that he was not a slave; he claimed that he was not but his wife and children-seems to me he had two children--and they were sold out of here and was carried to Texas by somebody, and I don't remember just who he said carried them away, but the best I remember about it that he had two children, Martha and Jennie, two girls, if I mistake not, as near as I can possibly think of it not all the present, and that he went along for his children's sake was that I seemed to understand from his talk,

and what he still lived there until the war closed and never came back, but I never was acquainted with him until '69 or '70.

Q Well, did he say what they went to Texas? A No, sir, I don't remember.

Q Well, as to the war, do you know the war? A It must have been before the war.

Q Did he say that his wife and children were sold? A I think he did, I won't be positive about that, but I think he did. I remember one time he told me, we were joking and working for me there picking cotton and chopping cotton and talking about the ups and downs down there in Texas, and that makes me think that you know, I asked him you done from down here in Texas and he spoke about his wife and children being sold and if I mistake not, he told me before the war they were sold out. I won't be positive about that, but it seems to me that he did, and then at the close of the war, or after the war a while, he came back, but I don't remember anything about the time, date, I never was acquainted with him until '69, we made a crop there that year and how come me to get acquainted with him is just I say, I had rented that piece of the Farque's on the creek and we made a crop there that year and I made a crop there in '70.

Q Well, did you ever hear Martha Albert say anything about her whereabouts, where she came from? Well she claimed, if I understand it, she claimed that she came from Texas.

Q Do you remember whether you ever heard Jennie Barnes say anything about where she came from? A I never heard Jennie Barnes say anything about it, she was not about our house, but those others they worked for me a great deal.

Q Do you remember whether Belden made any statement as to who his wife formerly belonged to up here in this country before the war? A I just don't remember.

Mr. McRea: I object to that.

Commission: Your objection will be noted.

A It seems to me that she was a whitmire, I won't be positive about that now.

MR. McREA: Mr. Hughes, you say your first acquaintance with Martha Albert and her family was in '69 or '70? A First acquaintance was '69, and in the fall of '69.

Q You knew nothing of them before that? A No, sir, I did not know them before '69, I could not tell you just that time of the year, but it went to have been the best knowledge I have about it now, was in '69, and what makes me think so I was married in '69, in July.

Q When was the last time you saw Martha Albert? A I suppose it must have been two or three years ago the last time I remember seeing her, two or three years ago.

Q Did you ever give testimony in this matter before?

A I never have, never was called on.

Commission: This testimony will be made a part of the record in the following cases: D.#42, D.#44, D.#82, D.#99, D.#100, D.#101, D.#102, D.#103, D.#104, D.#105, D.#114, D.#150, D.#151, D.#152.

EXAMINED

COPY.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Martha Albert, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

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| Martha Albert, et al., | Cherokee Freedmen | D- 42 |
| Robert Barnes, | Cherokee Freedmen | D- 99 |
| Lula Knalls, et al., | Cherokee Freedmen | D-100 |
| Nancy Berkum, et al., | Cherokee Freedmen | D-101 |
| Henry Albert, et al., | Cherokee Freedmen | D-102 |
| John Barnes, et al., | Cherokee Freedmen | D-103 |
| Jerry Albert, | Cherokee Freedmen | D-104 |
| Lillie White, et al., | Cherokee Freedmen | D-105 |
| Malinda McLain, et al., | Cherokee Freedmen | D-114 |
| Frank Gardner, | Cherokee Freedmen | D-146 |
| Joshua Barnes, | Cherokee Freedmen | D-150 |
| Sarah Brown, et al., | Cherokee Freedmen | D-151 |
| Minnie Barnes, | Cherokee Freedmen | D-152 |
| Maggie Bell, et al., | Cherokee Freedmen | D-153 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Martha Albert, for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls, for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Berkum, for herself and minor children, Annie and Walter Berkum; by Henry Albert, for himself and minor children, Harry and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Lenny Albert; by John Barnes, for himself and minor child, Cumie A. Barnes; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert, for himself; by Lillie White, for herself and minor children, Mattie and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Anne White; by Charles McLain, for his wife, Malinda McLain, and minor children, Russel, Ella, Christiana, Charles, Turner, and Jeanette McLain; by Frank Gardner, for himself; by Joshua Barnes, for himself; by Sarah Brown, for herself and minor child, Maggie Williams; by Minnie Barnes, for herself; by George L. Bell, for his wife, Maggie Bell; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell.

The evidence shows that the applicant, Martha Albert, and her sister, Jennie Barnes, now deceased, were not slaves of Cherokee citizens or free colored persons residing in the Cherokee Nation at the commencement of the war of the rebellion. All the other applicants herein, have been born since the commencement of the rebellion and are descendants of and claim right to enrollment through either the said Martha Albert or Jennie Barnes.

None of the names of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee Freedmen, should be denied under the provisions of Section twenty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

T. B. Needles

W. E. Stanley

Muskogee, Indian Territory,
this JAN 11 1904

FILED
MAY 11 1905
COMMISSION TO FIVE TRIBES.

Cherokee Freedmen R-418 to 431
both inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, April 27, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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It appears from the records of the Commission that on the 11 day of January, 1904, the Commission rendered a decision in the above case, denying all the applicants therein, which decision of the Commission was approved by the Secretary of the Interior on June 21, 1904. It further appears that on March 25, 1905, this application was remanded by the Secretary of the Interior for further hearing.

Now on this, the 27th. day of April, 1905, the applicants appeared in person and by their attorneys, Neal & London. The Cherokee Nation represented by Bell, Hastings & Davenport.

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Witness for applicants.

A. J. Alberty, being duly sworn, testified as follows:

MR. NEAL:

Q What is your name? A A. J. Alberty.
Q Where do you live? A Near Stilwell.
Q How long have you lived in the Cherokee Nation? A I was born there.
Q How old are you? A About 60 years old.
Q You are a Cherokee by blood? A Yes sir.
Q Were you acquainted with Johnson Whitmire before the war? A Yes sir.
Q How far did you live from him before the war? A I guess a couple of miles.
Q Were you acquainted with his slaves? A Yes sir.
Q Do you remember anything about his selling some slaves into Arkansas some time before the war? A Yes sir.
Q To whom did he sell those slaves? A A man by the name of Billingham.
Q Do you know whether there was a slave named Nancy sold to that man? A I think so.
Q Do you know this applicant? A Yes sir.
Q Did you know her before the war? A Yes sir.
Q To whom did she belong previous to the Rebellion? A Johnson Whitmire.
Q Was he a Cherokee Indian. A Yes sir.
Q Was she sold by Whitmire previous to the Rebellion? A Yes sir. I think she was.
Q Do you mean this applicant? A No sir.

Q Did he have two slaves by the name of Martha? A Yes sir, one was called big Martha and the other little Martha.
Q Which one was sold? A Big Martha was sold.
Q Was this one little Martha? A Yes sir.
Q Was she sold? A No sir, the other one was sold to Dillingham.
Q Do you know who took her out of the Cherokee Nation when the war broke out? A This one?
Q Yes? A I think it was Cornelius Wright.
Q Was he the boss who took the Whitmire niggers out? A Yes sir.
Q Did you, at any time during the war or at the close of the war, see this applicant anywhere, and if so, where? A After the close of the war I was down there in the Choctaw Nation on Red River, and I learned from the Choctaws that there were a lot of refugees there. I looked out for them, and found some of the Whitmire slaves.
Q Was that in the Choctaw Nation? A Yes sir.
Q When was it? A I think, to the best of my knowledge, that it was in the fall of '65.
Q Do you know of your own knowledge when she returned to the Cherokee Nation? A No sir, I don't.
Q What was this woman's mother's name? A She went by the name of Nancy.
Q What was the name of the other Martha Whitmire's mother? A I think her name was Dicy.
Q Her name was Dicy Whitmire before she was sold by Whitmire? A Yes sir.
Q Was her name Dicy Whitmire or Dicy Shepherd? A They always went by the name of their master.

MR. HASTINGS:

Q When is your birthday? A I think it was about '43, but I ain't right sure about it.
Q You have never had a birthday since? A No sir.
Q You didn't have one last year? A Yes, my birthday comes around I guess.
Q When was it? A In August of '43, I think it was.
Q But you are about 60 years old? A Yes sir.
Q Do you remember about the year that Dicy, the mother of Martha, was sold to Dillingham? A It was two or three years before the war.
Q Who else was sold at the time Dicy was sold to Dillingham? A There were two or three children.
Q What were their names? A One of them was called Martha.
Q Where did you live at the time? A Right up above Whitmire's up in Going Snake District.
Q Watt Whitmire lived there with his father didn't he? A If he did he was very young.
Q You say it was only three or four years before the war? A Well, I don't know his age.
Q Who did you get a letter from about a week ago to hunt up testimony in this case? A I didn't get one from anybody.
Q Did you ever get one from anybody with reference to hunting up testimony in this case? A I saw Mr. Rogers.
Q What Mr. Rogers? A That man over there behind Mr. Neal.
Q What interest did he have in the case? A I couldn't tell you. He just asked me to go over there and see if I could find anybody that knew these people.
Q Who did you go to to ask? A Mrs. Susie Walkingstick.
Q What interest did you have in going around over the neighborhood asking people if they knew about the people in this case? A They had asked me to do it as a favor.
Q Did you have any interest in the case? A No sir.

Q How many slaves did Johnson Whitmire have when the war came up?
A I don't know --- several.
Q Let's have the names of some of them? A One was called Dicy, one Nancy, Emma, Rachel. I believe that is all I know the names of. There were several more, but I don't remember their names.
Q How far did Jack Alberty live from Johnson Whitmire? A About 8 miles.
Q How far did Jeff Tik-nee-sky live from Johnson Whitmire? A About three or four miles.
Q Do you swear that Johnson Whitmire owned this slave and her mother when the war came up? A Of course he owned them.
Q You will swear that? A Of course I will.
Q And he owned her mother at that time? A Yes sir.
Q Was she very old? A Not very.
Q Did she have any more children? A I don't know. I wasn't that well acquainted with her. I was over there a good deal, but I didn't know about her business.
Q Don't you know whether she had any other children besides this Martha. A I don't know.
Q Didn't she have one older than Martha? A I don't know.
Q And didn't she have two younger than Martha? A I don't know.
Q But you knew Nancy and Martha? A Yes sir, but I met them out on Red River after peace was made, and that is how I knewed so much about them.
Q You didn't know that she had a brother or any sisters? A She had some brothers I guess.
Q What were their names? A One went by the name of Nelson, one was Aaron, and one was Lewis.
Q Who did they belong to? A I think they were kinder in partnership between Johnson Whitmire and George Whitmire.
Q Did you know the father of Johnson and George Whitmire? A No sir.
Q He died long before the war, didn't he? A I guess so. I never knew him at all.
Q When did Dillingham get Dicy? A I don't know about that.
Q Who took this applicant and her mother south? A Cornelius Wright.
Q Is that Cale Wright's father? A Yes sir.
Q Then Cale Wright would know about that? A I guess he would.
Q How do you know they went south with Cornelius Wright? A They told me so.
Q How old was this applicant when the war came up? A I could not tell you. I was about 15 years old, and she wasn't as large as me.
Q Was she five years old? A I don't know.
Q Was she three? A I don't know.
Q Was she two? A I have no idea about her age.
Q Do you mean to tell this Commission under oath that you knew this particular girl and yet can't tell whether she was 15 or two years of age? A She was over two.
Q What is your best judgement, if you are going to tell the truth? A I guess she was 13 or 14 years old.
Q You say she went south with Cornelius Wright? A Yes sir.
Q Did Cale go with his father? A I don't know whether he did or not.
Q Weren't you in the neighborhood? A No sir, I was a soldier.
Q Who was the reputed father of this applicant? A I never knew him.
Q Did you ever know of a free nigger by the name of Charley Rowland? A No sir.
Q He didn't live around there? A He might have, but I didn't know him.
Q He didn't go over with Dillingham? A I don't know.
Q You would have known it if he had? A I might not have seen them when they left, but just heard of it.
Q You know that Dicey went off with Dillingham? A Yes sir.
Q And she had a child by the name of Martha? A Yes sir.
Q And you swear that this Nancy and her child Martha were living there with Johnson Whitmire in Going Snake District when the war

came up? A Yes sir.
Q And yet you do not know how old she was? A I guess she was 13 or 14 years old.
Q How long was it immediately before the war that you saw this child at Johnson Whitmire's? A I was around there several times, and I don't just know when was the last time.
Q When was the last time you were at Johnson Whitmire's before the war? A I couldn't tell you that.
Q You must tell us what is your best judgement. You are under oath now? A In those days I didn't keep any account of my whereabouts. I was a young man, and didn't keep no account.
Q Were you in the country when the war came up? A Yes sir.
Q How long before the war came up was it that you were at Johnson Whitmire's? A Just a short time.
Q How long before the war was it that you saw Nancy at Johnson Whitmire's? A I couldn't tell you.
Q Was it ten years? A It might have been.
Q It might have been 15 years? A It might have been.
Q You are not going to be positive on that point? A No sir.
Q It might have been as much as four or five years before the war that you last saw Nancy and this child at Johnson Whitmire's? A It might have been a year or six months.
Q When you were at Jeff Tik-nee-sky's you didn't know anything about these people? A Yes I did.
Q Did you tell him that you knew them -- that you knew this applicant's mother? A Yes sir.
Q Did you tell Jeff what you have told on this stand? A I told him that I knew of one being named Nancy, and I told him the other one, I told him of the one that Dillingham took out-- that that one was called Dicy and her daughter was called Martha.

MR. NEAL:

Q Did you go into the army when the war first broke out? A Yes sir
Q Were you around there until you went off to soldiering? A Yes sir
Q Then you were in that neighborhood until the war broke out? A Yes sir.
Q In your cross examination you told Mr. Hastings that it might have been 10 or 15 years or six months that you lived within two miles of Johnson Whitmire and didn't go down there. Do you mean that you lived there that long and didn't go about his place? A Yes sir.
Q Then you don't know whether you stayed there five years before the war or not? A No, I couldn't tell you how long it was. I was over there now and then.
Q Every four or five years or what? A Maybe every two or three weeks.
Q Were you over there every two or three weeks before the war broke out? A Yes sir, maybe it would be a month.
Q Do you mean to say that before the war broke out you were over there every three or four weeks or every four or five years? A It was a short time.
Q Were you over there every week or two or every year or two? A Every week or two.
Q Then you said you didn't know how long it was, you meant that you didn't know how many days it was before you went to the army? A Yes sir.
Q Did you see Nancy within a month or six weeks before you went away? A Yes sir, I think so. It has been a long time ago and a man can't remember all of these things. Lots of things have slipped my memory.

MR. HASTINGS:

Q Wasn't Watt Whitmire, being a son of Johnson Whitmire, in a little better position to know what slaves his father had than you were? A I guesshe would. He knew them better than I would for he was with them every day.

COMMISSION:

Q When were you last at Johnson Whitmire's before the war broke out? A I couldn't tell you exactly.
Q What is your best judgement? A It might have been two or three weeks or a month.
Q Was it within a short time before the war broke out? A Yes sir.
Q Do you state now as a positive fact that when you were there the last time, that you saw this applicant there? A Yes sir.
Q The last time you were at Johnson Whitmire's before the war she was there. Do you state that as a fact, now? A Yes sir, she was there, but she was never taken out of there.
Q Well, she was there or else she was not? A Yes sir, she was there, but she was never was sold out.
Q Were any of the other slaves there? A Yes sir.
Q How often have you seen this witness since the war? A Just one time -- then I saw her yesterday or the day before. I saw her out on Red River before '65.
Q Since '65 up to a couple of days ago you haven't seen her at all? A No sir.

(Witness identifies his signature attached to an affidavit which is shown him.)

Q Are you willing to swear now, Mr. Alberty, that this woman, whom you haven't seen for 40 years is the same woman that you saw at Johnson Whitmire's just before the war? A Yes sir, I saw her out on Red River in '65, and she is the same one.
Q And you haven't seen her since until a few days ago? A No sir, I haven't.
Q In January of this year was your attention drawn to the fact about some Martha Albert --- about four months ago? A Not that I know of.
Q Do you remember this paper that I showed you a while ago? A Yes sir.
Q Did you read that paper before you signed it? A Yes sir.
Q Four months ago you swore before Mr. Rogers, a Notary Public, that you had known this woman all her life time, and now you state that from the time you saw her down on Red River, in '65, until a few days ago you didn't see her at all? A I couldn't see her all the time.
Q It is a fact that you had not seen her since '65 until a few days ago? A Yes sir, I hadn't.
Q Prior to that time you had signed this affidavit, hadn't you? A Yes sir.

(Reference is made to an affidavit signed by the witness in the case of this applicant, signed on January 10, 1905, before H. L. Rogers, Notary Public, and which is a part of the petition for a rehearing, addressed to the Department of the Interior and to the Honorable Commissioner of Indian Affairs.)

MR. NEAL:

I have one other witness, Martha Williams, who is the Martha that was sold by Johnson Whitmire to Dillingham. She lives at Marlton, and

we sent a man down after her, and this morning I got a message stating that she is sick, and that a doctor's certificate has been procured. As soon as she is able to travel I would like to bring her up here and take her testimony. The testimony of this witness is important, because she is the Martha that belonged to Johnson Whitmire and who was sold out to Dillingham.

WITNESS EXCUSED.

Martha Albert recalled for additional cross examination.

MR. HASTINGS:

Q What is your name? A Martha Albert now.
Q What was your father's name? A Charley Bowland.
Q What was your mother's name? A Nancy, but she was called Nannie when she was young.
Q How old are you? A I think I am about 60 years old, but I don't know exactly. I am not educated, and can't tell my age exactly.
Q Were you married before the war? A No sir, I was just a little girl.
Q Were you married during the war? A About the last year of the war.
Q Where? A On Red River.
Q Who did you go south to Red River with? A With Cornelius Wright's daughters.
Q Who took them? A Cornelius Wright took them, and there was another lot went along. We all went together, but I was so small that I didn't pay much attention.
Q Did you know any of Cornelius Wright's folks? A Yes sir, I knewed Alf Wright, and aunt Jinnie, and aunt Darcus.
Q Did Cornelius Wright have any children? A Yes sir.
Q What were their names? A I can't tell you, for it has been a long time ago, and I can't remember their names.
Q You can't recall the name of any one he had when the war came up? A I can remember them, but I can't remember their names.
Q You can't remember the names of any of them that went south with you? A No sir.
Q Where did Cornelius Wright live when the war came up, and about when you started south? A On the other side of Barren Fork.
Q On which side of Barren Fork was that? A On the north side.
Q How far from Barren Fork? A I didn't go out there and measure it, Mr. Hastings. I was too young.
Q What was Cornelius Wright's wife's name? A Her name was Sarah, I think.
Q Was she living when the war came up? A It seems to me like she was dead.
Q How long had she been dead when the war came up? A You must recollect that I was a child and don't remember lots of things. You must give me a chance the same as anybody else. You folks didn't give us niggers no education so we could know and remember things like that.
Q About how long before the war did Sarah Wright die? A I don't know.
Q Will you swear that she didn't go south with Cornelius Wright? A I don't know.
Q You are sure her name was Sarah? A I said I thought it was. What did us niggers know about that. All we could call them was Mistress, and most always that was all we knewed about their names.
Q What was Cornelius Wright's childrens names that went south? A I don't know.
Q You didn't have to call them Master and Mistress did you? A Sometimes we did, and then it has been so long ago that I have raised a family myself since then.

Q What was Johnson Whitmire's wife's name? A She was named Tempie.
Q Was she the wife that was living with him when the war came up?
A I think she was, but I wouldn't be positive.
Q You was their slave? A Yes sir, and he had plenty of slaves besides me.
Q How many children did Johnson Whitmire and his wife, Tempie, have?
A I will tell you the truth, and I wouldn't swear a lie to get on this roll. I don't know their names -- none but one. I knewed Watt, and that is the only one.
Q You know him because you heard me call his name, and because he was a witness against you in this case. How old was Watt when the war came up? A He was a good sized boy, but I was the largest.
Q If you were a child with them and Johnson Whitmire had some more children, why don't you remember their names? A I just tell you about that. If you had been raised up a slave in the backwoods like us you would not know your playmates' names.
Q The truth of the business is, you weren't there? A Yes sir, I was right there.
Q Did he have a brother named George Whitmire? A Yes sir.
Q What children did George Whitmire have? A He didn't live right there.
Q How far did he live from Johnson Whitmire? A I don't know. I know he lived in the country somewhere.
Q About how far? A I don't know.
Q You never were at George Whitmire's? A I belonged to Johnson Whitmire.
Q You never were at George Whitmire's? A No sir.
Q You don't know whether he had any children or not? A I think he did.
Q You don't know any of Johnson's children but Watt, and you did not know him until he testified against you? A Yes sir, I knewed him before.
Q But you never knew any of the rest of them, did you? A I don't know.
Q Where did Johnson Whitmire live when the war came up? A He lived up in Going Snake District.
Q Near what town? A Tahlequah.
Q About how far from Tahlequah? A I don't know.
Q Your best judgement? A I didn't have no judgement about it.
Q You weren't there, were you? A I was born and raised right there on the old Whitmire place.
Q How far is it from Tahlequah? A I don't know.
Q Was it as much as two miles? A I never have measured it.
Q Was it a mile and a half -- what is your best judgement? A It might have been a mile and a half or five miles.
Q Is five miles your best judgement? A My best judgement is that I don't know.
Q Is five miles your best judgement? A I don't know how far it was.
Q On what side of Barren Fork did he live? A On the north side.
Q How far did he live from the creek? A I don't know that. He didn't live so powerful far, though.
Q Was it five miles? A No, I don't think it was that far.
Q Right when the war come up how far did Johnson Whitmire live from Barren Fork? A I guess his old house is sitting there right now, on the north side of Barren Fork.
Q How far from the creek? A I couldn't swea answer lessen I know.
Q I want to know whether it was a short distance, or how far? A If I had been a young woman I might have been able to tell you.
Q How old were you? A I must have been about 4 or 5 years old.
Q And yet, you were married the last year of the war? A I was 13 or 14 years old when I married.
Q What became of your mother? A She died.
Q Where did she die? A Down in Sequoyah.
Q Did your father go south with you? A He didn't go with us but he come.
Q You remember seeing him around Johnson Wright's before you went?
A Yes sir, but his home was on pea vine.

Q What kind of a house did Johnson Whitmire live in? A I think it was a big log house.
Q Are you certain about that? A No sir, I won't be certain.
Q Did he live on the hill or in the valley? A On the side of the hill.
Q And you were four or five years old? A I suppose I was about that old.
Q You were born in '43 and left in '47? A I don't know. You ask me too tight questions. If I was sold I would say so.
Q How many slaves did Johnson Whitmire have? I mean, when the war came up? A He had old aunt Tempie, Artie, Mose, Celia, Mary, Nancy and me.
Q Did Celia have any children? A No sir.
Q Did Tempie? A She had two.
Q Were they older or younger than you? A Older.
Q Did they have any about your age? A No sir.
Q Did Mary have any children? A Yes sir.
Q What were their names? A One was named Bass and one was named Tom.
Q You don't know how far from Barren Fork Johnson Whitmire lived, though? A No sir.
Q You didn't know any of his children but Watt? A I did know them, but I have forgot their names.
Q You didn't know any of Cornelius Wright's children's names? A No sir.
Q You do not know the names of any of George Whitmire's children? A No sir, we didn't belong to George.

COMMISSION:

Q You have some children, haven't you, that you applied for? A Yes sir.
Q Elijah and Ida are two of them? A Yes sir.
Q Who is the father of these children? A Colly Albert.
Q He was a state man wasn't he? A Yes sir. Old man Bushyhead raised him, but he didn't belong to him.
Q How many times have you been married? A Just the one time.
Q What was your husband's name? A Colly Albert.
Q He doesn't claim any rights as a Cherokee Freedman? A No sir.
Q You have a child called Henry? A Yes sir.
Q Has he got some children? A Yes sir.
Q What are their names? A Harry, Raymond, and Louie.
Q Who is the mother of those children? A Florence.
Q She is a state woman? A Yes sir.
Q She doesn't claim any rights as a Cherokee Freedman? A No sir.
Q You have a girl called Lillie White? A Yes sir.
Q She has some children? A Yes sir.
Q Who was the father of those children? A Henry White.
Q He is a state man? A Yes sir.
Q Have you a child called Nancy Balkam? A Yes sir.
Q Has she any children? A Yes sir.
Q Their father doesn't claim any rights as a Cherokee Freedman. A No sir.
Q Have you a daughter named Malinda? A Yes sir.
Q Has she any children? A Yes sir, six.
Q Does the father of those children claim any rights as a Cherokee Freedman? A No sir.
Q Are they all living? A Malinda is dead, but her children are all living.
Q What relation is Jennie Barnes to you? A She is my sister.
Q A full sister? A Yes sir.
Q Did you have the same father and mother? A Yes sir.
Q Is Robert Barnes Jennie Barnes' son? A Yes sir.
Q The father of Robert was a state man? A Yes sir.

Q Jennie Barnes had a daughter called Lula Knalls? A Yes sir.
Q And she has two children? A Yes sir.
Q What are their names? A Sarah French and Fred E. Knalls.
Q Was the father of Sarah French a state man? A Yes sir.
Q What about the father of Fred? A He was a state man.
Q Who was the father of R-430? A He was a state man, too.
Q He is dead isn't he? A Yes sir. A Yes sir.
Q John Barnes is a son of Jennie Barnes too? A Yes sir.
Q His father was a state man? A Yes sir.
Q The mother of Gussie and John is a state woman? A Yes sir.
Q Sarah Brown has got a child called Maggie Williams? A Yes sir.
Q What is its father's name? A Marcus Williams.
Q He is a state man? A Yes sir.
Q Jennie Barnes had a daughter named Maggie, and Maggie had a son named George L. Bell. Who was the father of this child? A George Smith, or Bell.
Q Is he a state man? A. No sir.
Q He was denied as a Cherokee Freedman? A Yes sir.

WITNESS EXCUSED.

Witnesses for the Nation.

Watt Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Watt Whitmire.
Q What is your post office? A Westville.
Q What is your age? A 53.
Q Are you a Cherokee by blood? A Yes sir.
Q What was your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte.
Q Was your mother living when the war came up? A No sir.
Q How long had she died before the war? A I don't recollect. I was just an infant when she died. I think she died about ten years before the war.
Q Had your father remarried when the war came up? A Yes sir.
Q What was his wife's name then? A Tempie.
Q Did you have any brothers and sisters living when the war came up? A Yes sir, I had one full brother by the name of William, older than me, and then I had some half brothers, named George and Ellis, and a sister named Charlotte.
Q Do you know this applicant that goes by the name of Martha Albert? A If I ever saw her before I don't know it.
Q Did your father own some colored people when the war came up? A Yes sir.
Q Did he own one called Nancy when the war came up? A No sir.
Q Did your father own this colored applicant, who claims that she is the daughter of Nancy, when the war came up? A There was no Nancy on the place.
Q Did your father own this applicant? A No sir, she wasn't on the place.
Q Were you living with your father when the war came up? A Yes sir.
Q How far were you living from Barren Fork? A Right at two miles.
Q On which side of the creek? A South side.
Q Did you ever live on the north side of Barren Fork? A No sir.
Q Do you know one, Andy Alberty, whose post office is Stilwell? A Yes sir.
Q He has just testified upon the stand that your father owned a nigger slave by the name of Nancy and this applicant, who was the child of Nancy when the war came up. Was that true? A No sir, he never owned no woman by the name of Nancy.

Q How far did Andy Alberty live from your father when the war came up? A As near as I can guess it, it was 7 or 8 miles.
Q What kind of a house did your father live in? A A double log house.
Q You say your own mother was dead? A Yes sir.
Q Was your stepmother living when the war came up? A Yes sir.
Q What became of your father's slaves? A When father went south we left the women folks all at home. The men had all gone north before we left home. Me and my brother, George, were the last ones to leave the place, and we left all the women folks on the place, and after we left they all went north.
Q None that you owned went south? A Not one.
Q Where did you go during the war? A Down on Red River on the Choctaw side.
Q Did you know Cornelius Wright? A Yes sir.
Q Did you know his son, Cale? A Yes sir.
Q How far did they live from you? A Some five or six miles.
Q On what side of Barren Fork? A On the southeast side from us.
Q Did you see them down on Red River during the war? A Yes sir.
Q Did they have some slaves down there? A Yes sir.
Q Did they have a woman by the name of Nancy? A If they did I don't know it.
Q Did you ever see this applicant down there? A No sir.
Q Did you ever see her anywhere before? A No sir, this is the first time I ever saw her.
Q How long were you all and Cornelius Wright's people together in the Choctaw Nation? A I don't know. We moved away and left them there. We moved there in the early fall and left early the next spring, and we left Cornelius Wright's folks living there.
Q They were related to you? A Yes sir.
Q You know that Cornelius Wright didn't have any slave of your father's by the name of Nancy, down there? A No sir.
Q Did you ever know the alleged father of this applicant who she said went by the name of Charley Bowland? A No sir.
Q Was he in your neighborhood before the war? A I never heard of him.
Q Did you see him down on Red River during the war? A No sir.

MR. NEAL:

Q You say you and your brother went off and left the women folks there? A Yes sir.
Q You mean the slaves? A Yes sir.
Q You also said that they all went north? A Yes sir.
Q Do you know where they went? A I don't know only what they told me. After the war they told me they went to Fort Scott. One of the men told me that.
Q You don't know, of your own personal knowledge, where they went? A No sir, I just have their word.
Q You say that one of the men told you? A Yes sir, Dick and Mose both told me that the women folks were all in Fort Scott.
Q You said the men folks all went north? A Yes sir, they went north first -- before we left.
Q All you know about where the women folks went is what Dick and Mose told you, and they left before you did? A Yes sir.
Q You say your father didn't own any slave by the name of Nancy? A No sir.
Q Did he own one by the name of Nannie? A Yes sir, there was a little girl by the name of Nannie.
Q How old do you say you are? A 53.
Q That would make you how old when the war broke out? A Between 9 and 10.
Q You were acquainted with all of your father's slaves, were you? A Yes sir.
Q Knew all of the children? A Yes sir.

Q How many children did Rachel have? A 3 or 4 -- I don't know just exactly whether it was 3 or 4.
Q How many children did Sookie have? A There was Charlotte, Liza, Ibby and Mary.
Q There was a slave there named Fronie? A Yes sir, but I have forgot which woman was her mother.
Q How many children did Fronie have? A One.
Q Of your knowledge, you don't know where your father's slaves went? A Not only what they told me. They told me they went north.
Q You never have seen any of the women folks since then? A Not since the war.
Q You don't know where they are now, do you? A Not for certain. I never have been right to their houses.
Q You never have spoken to one of the negro women that belonged to your father, since the war? A No sir.
Q The only slaves of your father's that you have seen are Mose and Dick? A Yes sir.
Q How many slaves did your father have when the war broke out? A I would have to count them up.
Q About how many? A I guess there were 18 or 20, children and all.
Q You have named four children of Rachel's --- A As well as I recollect, I said there were that manY.
Q Five of Sookie's? A Yes sir.
Q And one of Fronie's? A Yes sir.
Q How many more children were there? A There was one by the name of Charlotte that had one or two children I think.
Q Do you think that, being only 9 or 10 years old, you would recognize a woman 55 or 60 years old who was a girl at the outbreak of of the war? A I guess not.
Q Then you don't know anything about Martha Albert -- anything about who she is, or anything about her? A No sir.
Q If she belonged to your father you don't know it? A No sir.

MR. HASTINGS:

You know your father didn't have a grown woman, with children, by the name of Nancy when the war came up? A No sir, he didn't.

COMMISSION:

Q You have testified in this case once before? A Yes sir.
Q Are you the Watt Whitmire that testified at Fort Gibson in 1901? A Yes sir.
Q Do you know this man, Dillingham? A No sir, I have heard of him frequently.
Q Did he live in your neighborhood? A I think not. I have heard my father speak of him.
Q You do not know how near he lived to your home, do you? A No sir, I know the place they say he lived on.
Q You know this Andy Alberty that testified here awhile ago? A Yes sir.
Q Did you know him before the war? A No sir.
Q When was the first time you ever knew him? A Since the war I got acquainted with him.
Q You don't know whether he was in the habit of visiting your father's house or not? A No sir.
Q Your mother's name was Lottie? A Charlotte.
Q You belonged to the seeond marriage? A No, the first.
Q

MR. NEAL:

Q How long before the war was it that your father married Tempie? A I don't recollect just when it was. I was a boy, up and running around, I guess two or three or four years old. It was anyway, three or four years before the war.

Q You were about 9 or 10 when the war broke out? A Yes sir.

MR. HASTINGS:

Q Was there any other Johnson Whitmire living around there before the war? A No sir.

COMMISSION:

Q Do you know what year it was that you went to Red River? A No sir, I don't.
Q What is your best judgement as to what year it was? A It would have to be a round about guess. I guess it was the second year of the war.
Q Do you remember distinctly about going to the Choctaw Nation? A Yes sir.
Q You remember the trip down there, and the people you met down there? A Yes sir.

WITNESS EXCUSED.

Cale Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Cale Wright.
Q Where do you live? A Tahlequah.
Q How old are you? A I am 59.
Q What was your father's name? A Cornelius Wright.
Q Were you living with your father when the war came up? A Yes sir.
Q Where? A About 3 or 4 miles west of Dutch Mills, on the Cherokee side.
Q What District? A Going Snake.
Q How far from Barren Fork? A About two and a half miles, I guess.
Q Where did your father go during the war? A South.
Q Did you go with him? A I didn't exactly start with him, but I got with him at Fort Smith when he was on the way.
Q Did you continue on the trip with him? A Yes sir.
Q Where did you go to? A The first place we stopped at was Armstrong's Academy in the Choctaw Nation, then we moved from there down to 10 miles south of Doaksville, near Red River.
Q Do you know this applicant, Martha Albert? A No.
Q She has testified that she and her mother, Nancy went south with your father during the war, and that her mother, Nancy, belonged to Johnson Whitmire, as well as herself, at the beginning of the war? Is that true? Did a Nancy Whitmire, who had one or two children, go south with your father? A They were not with him when I came up with him.
Q Did they have a Nancy Whitmire anywhere on that trip? A No sir.
Q Were you ever about Johnson Whitmire's place before the war? A Yes sir, I boarded there and went to school two sessions.
Q And you lived in his neighborhood? A Yes sir, within five miles.
Q Did Johnson Whitmire have some slaves? A Yes sir.
Q Did he have a slave by the name of Nancy who had some children when the war came up? A No sir. I never heard of that name while I was there going to school.
Q You lived in the same neighborhood? A Yes sir.
Q You were related to Johnson Whitmire? A I suppose we were distantly related, but I don't know just how much.
Q You do not know the degree of relationship? A No sir.
Q Did you ever see this applicant down south after the war or during the war? A I am just looking at her. Let me talk to her some, and see.
Q Are you satisfied, from the conversation that you have had with her, that she was with your father down south? A No, she could not have been.

Q Did you know this Andy Alberty? A Yes sir.
Q How far did he live from Johnson Whitmire before the war?
A It must have been 8 miles, across the mountain.
Q You swear postively that your father did not have a woman by the name of Nancy, and her child, that belonged to Johnson Whitmire, down on Red River during the war? A No sir.

Applicant to witness--- Was Arthur with you? A No.
Q Was Rose? A Yes, there was a Rose -- Lucindy's daughter.
Q Was Jinnie with you? A Jinnie died in '61.

MR. HASTINGS:

Q You know that no Nancy Whitmire went south with your father?
A No sir.

MR. NEAL:

Q You said just now that you judge from your conversation with the applicant, that she could not have been with your father down there? A No sir, she couldn't.
Q The reason that you say she was not with your father is because she doesn't seem to know enough about the people? A That is it.
Q Upon that you base your judgement? A Yes sir.
Q There were a good many slaves that went with your father down there? A Yes sir, several.
Q Did any of the Whitmire niggers go with your father? A No. The Whitmires went out there themselves and we all went to ourselves, and at last we all got into the same neighborhood before we started back.
Q You didn't go out of the Territory at all? A No, we stopped on the north side of the river in the Choctaw Nation.
Q You say that you boarded at Johnson Whitmire's and went to school, and you say he had no slave named Nancy-- name some of his slaves---
A You call them off.
Q I want you to call them off? A He had Hannah, Myra, Fronie, Rachel, Ibby, Mary, and there might have been some young ones, but those are the older ones.
Q Didn't he have one named Jane? A Not that I know of.
Q Didn't he have one named Mattie? A No.
Q Didn't he have one named Nannie? A Well, I don't know, but if he did she must have been mighty small.
Q Didn't he have one named Sookie? A Yes, there was one named Sookie.
Q Do you know the names of any of the men? A Yes, there was Dick, Mose, Mike, Frank, and Mark.
Q What was Johnson Whitmire's wife's name when the war came up?
A Her name was Tempie.
Q Were you acquainted with his first wife? A No, she was dead long before I could remember her.
Q How old were you when you boarded there? A It was along in '50. I was a good big chap.
Q You remember the names of all of those slaves by having boarded there? A Yes sir.
Q How far did you live from there? A About 5 miles, I reckon. In our country we had what we called bridle ways that were nearer, but it was about 5 miles around.

MR. HASTINGS:

Q Did you mean in the year '50 or between '50 and '60? A Yes sir, that is it -- between '55 and '60.
Q About how long before the war? A I couldn't tell that.

The war broke out in '61, and it must have been three or four years before the war.
Q Were you there frequently besides boarding there? A Yes sir.

MR. NEAL:

Q You said when you were south on Red River that the Whitmire folks got into the same neighborhood? A Yes sir.
Q And some of the slaves were there? A Yes sir.
Q Old man Johnson Whitmire didn't carry out any slaves? A I think George had a slave or two.
Q You say that none of Johnson Whitmire's slaves were there? A No, they all went north.

COMMISSION:

Q Have you ever seen this woman before, to your knowledge? A No sir, I don't know anything about her.
Q How far do you live from Melvin? A I live up to Tahlequah, and I don't know just how far it is.
Q Do you know any of these applicants --- any of this woman's children? A No sir.

WITNESS EXCUSED.

J. W. Alberty, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A J. W. Alberty.
Q What is your post office? A Westville.
Q How old are you? A Well sir, I will be 71 years old the 26th. day of July.
Q This is the case of Martha Albert, in which you have given testimony before? A Yes sir?.
Q You knew Johnson Whitmire before the war? A Yes sir.
Q How far did you live from him? A Six or Seven miles.
Q You testified about the sale of some slaves to a man by the name of Dillingham? A Yes sir.
Q About when did he sell them to Dillingham? A It was either in '47 or '48.
Q Do you know this applicant here? A No sir.
Q She has testified that her mother was named Nancy and that her father was named Charley Bowland. Did you know the Nancy, the alleged wife of Charley Bowland? A Yes sir.
Q Who did she belong to? A Old man Dillingham moved to Texas and took this family with him?
Q To whom did she previously belong? A To Johnson Whitmire.
Q And Dillingham acquired her from Johnson Whitmire in the year of 1847 or 1848? A Yes sir.
Q Are you certain that her name was Nancy? A Yes sir.
Q What became of Charley Bowland? A He went with Dillingham.
Q Do you know whether Nancy had some children? A She had two or three.
Q You don't know whether this applicant was one of them or not? A No sir.
Q Did Johnson Whitmire have a grown slave by the name of Nancy when the war came up? A No sir, not that I know of.
Q You were familiar with him? A Yes sir.
Q Are you prepared to say that Charley Bowland was not in that country when the war came up? A Yes sir.
Q Do you know Andy Alberty? A Yes sir.
Q Is he a relative of yours? A Yes sir.

Q Where did he live before the war? A He lived right close to Oak Grove school house.
Q How far from Johnson Whitmire's? A Between 7 and 8 miles.
Q Then Nancy, the wife of Charley Bowland, was taken south? A Yes sir.
Q What was the citizenship of Dillingham? A He wasn't no citizen at all, he was just a white man.
Q Well, he was a United States citizen? A Yes sir.
Q Where did he live in '49 or '50? A Before he went to Texas he lived in Arkansas.

MR. NEAL:

Q You lived closer to Dillingham than you did to Johnson Whitmire didn't you? A Yes sir.
Q You were better acquainted with Dillingham's slaves than you were with Johnson Whitmire's? A Yes sir.
Q You knew more about this woman after Dillingham bought her than than you did when she belonged to Johnson Whitmire? A Yes sir.

WITNESS EXCUSED.

Jeff Catcher (Tik-nee-sky), being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Jeff Catcher.
Q What is your postoffice? A Stilwell.
Q How old are you? A I was 65 the 15th. day of last month.
Q Are you a Cherokee citizen? A Yes sir.
Q You are also known as Jeff Tik-nee-sky? A Yes sir, that is my Cherokee name.
Q Where did you live before the war? A In Going Snake District, on Rea Vine.
Q Close to where you live now? A About 300 yards west of where I live now.
Q Did you know Johnson Whitmire before the war? A Yes sir.
Q How far did you live from him? A It was about three quarters of a mile, I reckon, maybe a leetle over.
Q Were you a soldier in the army? A Yes sir.
Q You were about grown when the war came up? A Yes sir.
Q Did Johnson Whitmire have some slaves? A Yes sir.
Q Did he have a grown woman slave by the name of Nancy, who had some children when the war came up? A No sir, I don't recollect one by that name.
Q Were you frequently at his house? A Pretty near all the time. Once a week, anyhow. I was there pretty much all the time.
Q Do you know this applicant, who gives her name as Martha Albert? A No sir.
Q Did you ever see her before? A No sir.
Q Did you know a white man that lived across the line by the name of Dillingham before the war? A No, I never saw him, but I have heard him talked of a good deal.
Q You were too small to remember him? A Yes sir, but I have heard of him.
Q You don't know whether he bought some slaves of Johnson Whitmire or not? A I don't know. He didn't after I got big enough to recollect.
Q Did Johnson Whitmire, when the war came up, have a woman by the name of Nancy? A No sir.
Q What army were you in? A The Federal army.
Q Do you know Andy Alberty? He just testified here awhile ago?

A Yes sir.
Q How far did he live from Johnson Whitmire? A Between 7 and 8 miles.
Q Did you know a free colored man in that country by the name of Charley Bowland? A I have heard of him, but I don't recollect him.
Q He wasn't there just before the war? A No sir.

MR. NEAL:

Q You say that you don't remember a woman named Nancy that belonged to Johnson Whitmire? A No sir.
Q You don't mean to say that he didn't have one by that name, but that you just don't remember her? A If he had one it must have been a small child, for I know all the old ones. I think I can name all the old ones.
Q Name them? A The old women that I knew was Myra, Em, Sookie, Hannah, Rachel, Fronie, Mary, Charlotte, and the balance were small and I don't recollect their names.

MR. HASTINGS: Q. Was Andy Alberty over to see you lately to see about this case? A Yes sir, last Sunday.
Q What did he say to you? A He asked me if I knew of Mr. Whitmire having a woman by the name of Nancy.
Q What did he say about it? A He didn't say that he knew anything about it. He just wanted to find somebody that knew them.
Q Did he say that he knew one at that time by the name of Nancy? A He didn't say whether he did or not? He just wanted to find somebody that did know her. I told him I didn't think Johnson Whitmire owned any nigger by that name.
Q That is the same Andy Alberty that you saw out there in the hall who has just testified here? A Yes sir.

MR. NEAL:

Q As soon as Mr. Alberty told you that he wanted to get witnesses who knew this woman who did you go and tell about it? A I told him that there was an old woman up there, Susie Walkingstick, and that if anybody would know about it she would for she was older than I was. I said, for my part, I didn't know anything about it. Afterwards, I saw him and told him that what I knew was not in his favor, but will go against him, for I was there and knew all about his niggers.
Q You sent him around to see Susie Walkingstick, and told him that if he owned one by that name it was before you could remember? A Yes sir.
Q And then you chased out to see if they wanted witnesses for the Nation? A No sir.

COMMISSIONER:

Q How big a place did Johnson Whitmire have? A About 75 acres in cultivation.
Q About how many slaves did he have at the beginning of the war? A He must have had 15 or 20.
Q Was that the only place he had in the Cherokee Nation? A Yes sir.
Q Did he have a plantation anywhere else? A Nothing only a cattle ranch down about Webbers Falls. He and his brother George had a ranch together. They both owned slaves.
Q He didn't have any female niggers down at the ranch? A No sir.
Q You are positive that those are the only two places he had? A Yes sir.

WITNESS EXCUSED.

Charlotte Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Charlotte Wright.
Q What is your post office? A Christie.
Q How old are you? A 58.
Q What was your maiden name? A Whitmire.
Q Who was your father? A George Whitmire.
Q What relation was he to Johnson Whitmire? A A brother.
Q Where did you live before the war? A I lived on Barren Fork. West of the Barren Fork station and east of Christie.
Q How far from where you are living now? A About a mile and a half.
Q You have lived there all your life? A Except when I was south during the war.
Q Did you go south? A Yes sir, we were gone four years.
Q Where did you go? A To Red River -- near Bonham only we were on the Choctaw side.
Q Did you know Cornelius Wright before the war? A Yes sir.
Q Did you see him down on Red River? A Yes sir.
Q Do you know Cale Wright? A Yes sir.
Q You saw these people down south during the war? A Yes sir, we got to be neighbors down there.
Q Did Johnson Whitmire have some slaves before the war? A Yes sir.
Q Do you know this applicant here? A I don't recognize her.
Q Did Johnson Whitmire have a grown woman slave by the name of Nancy when the war came up? A I don't remember her.
Q Was there a free colored man in the neighborhood, by the name of Charley Bowland, when the war came up? A I never heard of it.
Q This applicant gives her mother's name as Nancy and her father's name as Charley Bowland? A I never knew them.
Q Do you state that Johnson Whitmire had any slave by the name of Nancy, who had some children, when the war came up? A If he did I don't know it.
Q He was your uncle? A Yes sir.
Q Were you frequently at his house? A Yes sir.
Q How far did your father live from him? A I guess it was 5 or 6 miles.
Q You lived in the same neighborhood? A Yes sir.
Q And you were frequently at your uncle's place? A Yes sir.
Q Would you stay any length of time? A As long as a week.
Q You knew his family and slaves? A Yes sir.
Q They never had one by the name of Nancy that you know of? A No sir.
Q Did you see any slaves down south with Cornelius Wright, and among them one named Nancy who claimed to belong to your uncle Johnson before the war? A No sir, none of his slaves went south that I know of. They all left him.
Q You didn't see any down there that claimed to have belonged to him? A No sir.
Q You do not remember to have ever seen this applicant before? A No sir.

MR. NEAL:

Q You have not seen any of Johnson Whitmire's female slaves since the war, have you? A No sir.
Q You probably wouldn't remember a girl that was 4 or 5 years old? A I think I would recognize her. I could be mistaken, but I think I would recognize her.
Q How old were you when the war broke out? A I was 14 years old when we had to leave home.
Q You say that if Johnson Whitmire had a slave by the name of Nancy, you don't know anything about it? A No sir.
Q You don't know that he didn't have one by that name, but you just don't know about it? A I never saw one by that name on the place, and I don't think he had one by that name. I don't recollect any-

thing about it, and never heard anything about it.
Q You don't know postively that he didn't have one by that name? A No sir, he didn't have one that I knew of. He didn't have one at home, and I don't think he had any away from home. I never heard of it if he did. But I know there was no one on the place by that name.

WITNESS EXCUSED.

Charles Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Charles Whitmire.
Q What is your post office? A Proctor.
Q How old are you? A 56 I reckon.
Q Are you younger than your sister, Mrs. Wright? A Yes sir.
Q She was your sister? A Yes sir, she was always recognized as my sister.
Q You are the son of George Whitmire? A Yes sir.
Q Johnson Whitmire was your uncle? A Yes sir.
Q Do you remember Johnson Whitmire before the war? A Yes sir.
Q About how old were you when the war came up? A I couldn't tell you -- 12 or 14 I guess.
Q Were you about Johnson Whitmire's frequently? A Yes sir, I stayed there a right smart and went to school from his house.
Q Did Johnson Whitmire have some slaves? A Yes sir.
Q Did he have a grown woman slave who had some children, by the name of Nancy, when the war came up? A Not that I remember.
Q Well, if he had had one that was old enough to be, and was the mother of some children would you have known it? A Yes sir, I think I knowed all of the older ones.
Q You didn't know one by the name of Nancy? A No sir.
Q Do you know this applicant here? A No sir.
Q Did you ever see her before? A Not that I remember.
Q Did you ever know a free colored person by the name of Charley Bowland in the country? A No sir.
Q Then, of course, you never knew his wife, Nancy? A No sir.
Q Did you say that you stayed at Johnson Whitmire's and went to school? A Yes sir.
Q Did you know Johnson Whitmire's wife and family? A Yes sir.
Q Is Watt one of the children? A Yes sir.
Q Where did you go during the war? A I went south to Red River.
Q Did you know Cornelius Wright? A Yes sir.
Q Did you see him down there? A Yes sir.
Q Was he Cale Wright's father? A Yes sir.
Q Did he carry any of Johnson Whitmire's slaves down south with him? A No sir.
Q It has been sworn that he took some of Johnson Whitmire's slaves and among them was this woman, Nancy, and this applicant. Is that true? A If he did, he didn't have them when we got to where they were.
Q You were not old enough to know a white man by the name of Dillingham, were you? A No sir.

MR. NEAL:

Q How old did you say you are? A 56 if I am not mistaken.
Q You are older than your sister? A No sir.
Q Who else was boarding down there and going to school? A Nobody but me and his boy went to school. Sometimes Aunt Tempie had two sisters who stayed there and went to school.
Q When were you there? A I don't know.
Q Were you there off and on for four or five years before the war? A I don't know.
Q Did you stay there more than one year? A I went from there for two or three sessions.

Q You never happened to be there when anybody else was boarding there? A I was there when Aunt Temple's sisters were there. I don't remember anybody else.
Q How many years before the war was it? A I am not able to tell you what year it was. I stayed at home some, and then I didn't get to go to school but very little.
Q Your cousin, Cale, boarded down there and went to school didn't he? A I couldn't say whether he did or not. If he went to school from there when I did I don't remember it.
Q You said that you were of the opinion that Johnson Whitmire had no slave by the name of Nancy who was old enough to have children at that time? A No sir.
Q If he did you don't remember it? A No sir, I don't remember ever hearing that name called.
Q You never knew her if she was there? A No sir, I don't remember any of the folks on the place calling one by that name.

MR. HASTINGS:

Q If there had been one there by that name would you have known it? A Yes sir.

MR. NEAL:

Q You would remember it all these years, would you? A I don't know, but I think I would. I remember the names of all of the older ones.

COMMISSION:

Q Where was this school? A On Barren Fork, on Pea Vine.
Q How far from Johnson Whitmire's? A About a mile and a half.
Q Who had this school? A An old missionary lady taught the school. I don't remember her name.
Q Was it a kind of a convent school? A It was kept up by the Cherokee Nation. It was a public school.
Q How far away was the nearest school to it? A I couldn't say positively just how far away. I expect it was 8 miles. I wouldn't be positive, but I expect it was that far.
Q Was Johnson Whitmire in the habit of taking boarders to attend school? A Yes sir, and so did my father.
Q You were convenient to the school, and the people from the neighboring vicinity sent their children over there to board and go to school? A Yes sir.

MR. NEAL:

Q You say your father kept boarders? A Yes sir.
Q How did it happen that you didn't board at home? A My uncle had a boy, and had nobody to go to school with him, so I was sent over to go to school with this boy.
Q How near did your father live to the school? A About four miles, but he built a house about three quarters of a mile from the schoolhouse where he kept the teacher and boarders.

WITNESS EXCUSED.

(Mr. Neal — I would like that the case be held open until I can introduce one other witness, the Martha Williams who was actually sold to Dillingham, and if I can get her, I will bring Susie Billingsley.)

By consent and agreement, this case is continued to May 31, 1906, at 1:30 o'clock P. M.

Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 27th. day of April, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

(Signed) Eula Jeanes Branson.

Subscribed and sworn to before me this 29th. day of April, 1905.

(Signed) Myron White.
Notary Public.

SEAL

Louise Smith, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, she made the above and foregoing copy and that same is a true and complete copy of the original transcript.

Louise Smith

Subscribed and sworn to before me this May 10, 1905.

Notary Public.

FILED
COMMISSION TO FIVE TRIBES

FILED
MAY 1 8 1905
COMMISSION TO FIVE TRIBES.

Cherokee Freedman-R-418 to 431, inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, May 11, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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Neal & London, attorneys for the applicants.

Bell, Hastings & Davenport, attorneys for the Cherokee Nation.

C O M M I S S I O N.

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On this, the 11th. day of May, this cause coming on to be heard, the applicants appear neither in person nor by attorney. The Cherokee Nation, represented by W. W. Hastings, introduces the following testimony:

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Aaron Whitmire, being first duly sworn, testified as follows, on behalf of the Cherokee Nation:

MR. HASTINGS:

Q. Your name is Aaron Whitmire? A. Yes sir.
Q. You are a freedman citizen of the Cherokee Nation? A. Yes sir.
Q. How old are you? A. About 69.
Q. To whom did you belong when the war came up? A. George Whitmire.
Q. What relation was George to Johnson Whitmire? A. They were brothers.
Q. How far apart did they live? A. About four miles when the war came up.
Q. In what District? A. Going Snake.
Q. Did they use to live together? A. Yes sir, till they got married.
Q. Were you familiar with Johnson Whitmire's slaves? A. Yes sir
Q. Did you ever know a slave that he had there by the name of Nancy who had Charley Bowland, a free colored man, for her husband? A. Yes sir.
Q. What became of Nancy? A. She was sold to a man by the name of Dillingham.
Q. What was Dillingham's citizenship? A. A citizen of the United States.

Q. Where did he live? A. Right on the line of -- or close to the line of Arkansas.
Q. Did this Nancy have any children when she was sold? A. I think she had one, is all I recollect.
Q. What was that child's name? A. Martha.
Q. Now, I refer to the Nancy who had a husband by the name of Charley Bowland, a free colored man? A. Yes sir, and so do I.
Q. About how long before the war was it that she was sold to Dillingham? A. As near as I can recollect, it must have been 8 or 10 years or more.
Q. Did Dillingham continue to live over there in Arkansas till the war came up? A. No sir.
Q. What became of him? A. He went to Texas before the war come up
Q. Aaron, it has been alleged here that Johnson Whitmire had another Martha whose mother was Dicy, and that Dicy and that Martha were sold instead of this Martha and Nancy? Did he have another woman by the name of Dicy? A. Yes sir.
Q. Did he have her when the war came up? A. No sir, she was dead.
Q. Did Dicy have any children? A. One.
Q. What was its name? A. Cinthy.
Q. What became of Cinthy? A. She was sold to a man by the name of Russell, who lived in Arkansas.
Q. About how long before the war was she sold? A. 6 or 8 years.
Q. Did Johnson Whitmire have any other Dicy? A. No sir, never did.
Q. Did you ever hear of his selling a Dicy to Dillingham? A. No sir.
Q. Did you ever hear of his selling a little girl by the name of Martha, besides this one? A. No sir, this was the only Martha on the place.
Q. Did he have a Martha when the war came up? A. No sir.
Q. Did you ever see the applicant who gives her name as Martha Albert, who is the wife of Collie Albert? A. I haven't seen her since she was sold.
Q. Did Charley Bowland go to Texas? A. Yes sir.
Q. Was he in the Going Snake country when the war came up? A. No sir, I never did see him after he went to Texas.
Q. What became of Johnson Whitmire's slaves? Did any of them go to Texas? A. No sir.
Q. What became of his women slaves? A. They went north.
Q. Who took them north? A. They went off with the soldiers.
Q. How long did you remain up there at the old Whitmire place? A. Till '64.
Q. Then you went to Kansas? A. Yes sir.
Q. Had all of Johnson Whitmire's slaves gone off north with the soldiers? A. All but two, and they were with me. They were two very old women -- Amy and Myra.
Q. Had Cornelius Wright gone south? A. Yes sir.
Q. He took his slaves with him? A. Yes sir.
Q. Did Johnson Whitmire have any other Nancy or Nannie other than the one he sold to Dillingham? A. Yes sir, he had a little girl called Nannie.
Q. Who was her mother? A. Sookey.
Q. What was Sookey's name? A. Smith.
Q. What was her husband's name? A. Mose Smith. He is dead.
Q. Where does she live? A. Up here on Big Creek in Cooweedoowee District.

COMMISSION:

Q. How many slaves did Johnson Whitmire have at the beginning of the war? A. He had some 20 or 25.
Q. Can you give their names? A. I could name the old ones.
Q. Give me the names? A. The first old woman was Amy, Myra, Hannah, Sookey, Kizzy, Mike, Dick, Martin, Mose, Saphronia, Rachel, Charlotte, Liza, Aby, Frank, Nannie. That is about all I can recollect.
Q. These are all the older ones? A. Yes sir.
Q. The younger ones you do not remember? A. I cannot recollect them.
Q. How many of these slaves do you know of that are living now, of the 15 or 16 you have just named? A. I don't know of but two that are living.
Q. Where are they? A. Up on Big Creek.
Q. What are their names? A. Nannie Smith and Frank Whitmire.
Q. Where does Frank live? A. On Big Creek.
Q. How old a man is he? A. I don't know just how old a man he is -- right at 60 I guess.
Q. Do you know Martha Williams? A. No sir.
Q. Are you positive now that at the breaking out of the war Johnson Whitmire did not have a slave by the name of Martha? A. Yes sir.
Q. Do you know whether he had a child slave by that name? A. No sir, there was not one by the name of Martha.
Q. You know that of your own knowledge? A. Yes sir.
Q. You mentioned in your testimony about a Nancy who had a daughter called Martha, and that they were sold to Dillingham. Have you ever seen them since that time? A. I never have.
Q. Do you know who this applicant is -- have you seen her? A. I don't know that I would know Martha if I saw her.
Q. How far do you live from Fort Smith? A. I live away up near the Kansas line.
Q. Did you say you knew Charley Powland? A. Well.
Q. Was he a free colored person? A. Yes sir.
Q. And you know that he married one of Johnson Whitmire's slaves named Nancy? A. Yes sir.
Q. You cannot be mistaken about that? A. No sir.

WITNESS EXCUSED.

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COMMISSION:

After the introduction of the above testimony by the Cherokee Nation, the attorneys for the applicants appeared, by their stenographer, Miss Sorenson, and filed with the Commission a motion for continuance.

MR. HASTINGS:

The attorneys for the Cherokee Nation object to the motion for continuance, filed in this case, for a number of reasons, to wit:

FIRST:-- This case has been continued a number of times upon motion and at the request of the applicants;

SECOND:-- The motion for continuance is not sworn to;

THIRD: -- The motion for continuance does not set up what is expected to be proven by the said Martha Williams, but states that she is an important witness, and does not state what is expected to

be proven by her, so that the Commission can pass upon the materiality and admissability of the testimony;

FOURTH: -- Because the certificate of the attending physician is not sworn to.

COMMISSION:

The motion for continuance will be taken under advisement, and the attorneys will be notified by mail.

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Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 11th. day of May, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Eula Jeanes Branson

Subscribed and sworn to before me this the 17th. day of May, 1905.

[illegible]

Notary Public.

COPY.

A. F. Mc.
D. C. L.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

In the matter of the application for the enrollment of Martha Albert, et al., as Cherokee freedmen, consolidating the applications of:

| | | | |
|---|---|---|---|
| Martha Albert et al., | Cherokee Freedmen | (D 42) | R 418 |
| Robert Barnes, | " | (D 99) | R 419 |
| Lula Knalls et al., | " | (D 100) | R 420 |
| Nancy Berkum et al., | " | (D 101) | R 423 |
| Henry Albert et al., | " | (D 102) | R 421 |
| John Barnes et al., | " | (D 103) | R 422 |
| Jerry Albert | " | (D 104) | R 425 |
| Lillie White et al., | " | (D 105) | R 424 |
| Malinda McKain et al., | " | (D 134) | R 426 |
| Frank Gardner | " | (D 146) | R 430 |
| Joshua Barnes | " | (D 150) | R 427 |
| Sarah Brown et al., | " | (D 151) | R 428 |
| Minnie Barnes | " | (D 152) | R 429 |
| Maggie Bell et al., | " | (D 182) | R 431. |

-: D E C I S I O N :-

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Martha Albert for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Berkum for herself and minor children, Annie and Walter Berkum; by Henry Albert for himself and minor

children, Harry and Raymond Albert, thereafter, on Octoner 31, 1902, there was filed with the Commission an affidavit showing the birth, on June 4, 1902, of Lewey Albert, son of the applicant, Henry Albert; by John Barnes for himself and minor child, Gussie A. Barnes, thereafter, on August 20, 1902, there was filed with the Commission an affidavit showing the birth, on June 15, 1902, of John A. Barnes, son of the applicant, John Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie and Nancy White, thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on March 8, 1902, of Ames White, son of the applicant, Lillie White; by Charles McLain for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain, thereafter, on September 1, 1901, there was filed with the Commission an affidavit showing the birth, on May 17, 1901, of Mattie McLain, daughter of the applicant, Malinda McLain, by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; and by George C. Bell for his wife, Maggie Bell, thereafter, on November 7, 1901, there was filed with the Commission an affidavit showing the birth, on September 18, 1901, of George L. Bell, son of the applicant, Maggie Bell.

THE RECORDS FURTHER SHOW: That on January 11, 1904, the Commission rendered its decision herein, denying said applicants, except Mattie McLain, whose rights to enrollment, through an oversight, were not considered, the right to enrollment as Cherokee freedmen, and that on June 21, 1904 (Departmental letter I. T. D. 4732-04), said decision was duly affirmed by the Department; that, thereafter, on March 28, 1905 (Departmental letter I. T. D. 1332-05), on motion of the applicants, this case was reopened by the Department, and remanded for further testimony and readjudication; and that, thereafter, on April 13, and 27, and May 11, and June 22, 1905, further proceedings in the matter of said applications were had at Muskogee, Indian Territory.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Martha Albert, claims the right to enrollment as a Cherokee freedman by virtue of her compliance with the treaty stipulations of 1866, and that all the other applicants herein claim the same right as descendants of the said Martha Albert and one Jennie Barnes, deceased, who, it is alleged, complied with said treaty stipulations of 1866.

The following points are fully established by the evidence, no attempt having been made to disprove them:

(1) That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were full sisters, and were born prior to the commencement of the rebellion.

(2) That all the other applicants herein were born since the commencement of the rebellion, are lineal descendants of the applicant, Martha Albert, and the said Jennie Barnes, deceased, and possess no rights to enrollment as Cherokee freedmen other than as such descendants.

(The records of this office fail to show that Ruth Barnes, mother of the applicants, Gussie A. and John A. Barnes, has ever made application for enrollment as a Cherokee freedman. Her mother, Millie White, and full sister, Viola White, and full brothers, Jim H. and Harry White, were originally listed for enrollment as Cherokee freedmen on Memorandum cards Nos. 10, 13, and 14, and were later transferred to Freedman Rejected cards, Nos. 317, 320 and 321. On April 24, 1905, their applications for enrollment as Cherokee freedmen were denied by the Commission, and record forwarded to the Department.

George C. Bell, father of the minor applicant, George L. Bell, was denied enrollment as a Cherokee freedman, by the Commission, on April 20, 1904, and on May 26, 1904,-Departmental letter I. T. D. 4050-04,- the Commission's decision was approved by the Department).

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the commencement of the rebellion, but, rather that several years prior to the commencement of said rebellion, they, together with their mother "Nancy", were sold to one Dillingham, a citizen of the United States, were removed from the Cherokee Nation, and it is further shown that they did not return to said Nation on or prior to February 11, 1867. Excepting the Wallace and Kern-Clifton Rolls, none of the applicants herein can be identified on any roll of the Cherokee Nation in the possession of this office.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 (30 Stat., 495), Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A.

Barnes, John A. Barnes, Jerry Ebert, Lillie White, Ethel White, Henry White, Amy White, Elijah Welch, Sarah Welch, Ella Welch, Marjorie Welch, Charles Welch, Turner Welch, Jennette Welch, Willie Welch, Frank Garmany, Joshua Garmany, Sarah Frank, Reggie Williams, Minnie Haynes, Reggie Bell and George L. Bell, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

(Signed) Tams Bixby
Commissioner.

Dated at Muskogee, Indian Territory,
this JUL 24 1905

A. W. Mc.
D. C. L.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

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In the matter of the application for the enrollment of Martha Albert, et al., as Cherokee freedmen, consolidating the applications of:

| | | | | |
|---|---|---|---|---|
| Martha Albert et al., | Cherokee | Freedmen | (D 42) | R 414 |
| Robert Barnes, | " | " | (D 99) | R 415 |
| Lula Knalls et al., | " | " | (D 100) | R 416 |
| Nancy Berkum et al., | " | " | (D 101) | R 425 |
| Henry Albert et al., | " | " | (D 102) | R 421 |
| John Barnes et al., | " | " | (D 103) | R 422 |
| Jerry Albert | " | " | (D 104) | R 423 |
| Lillie White et al., | " | " | (D 105) | R 424 |
| Malinda McLain et al., | " | " | (D 114) | R 426 |
| Frank Gardner | " | " | (D 146) | R 427 |
| Joshua Barnes | " | " | (D 150) | R 427 |
| Sarah Brown et al., | " | " | (D 151) | R 426 |
| Minnie Barnes | " | " | (D 152) | R 429 |
| Maggie Bell et al., | " | " | (D 182) | R 431. |

---::---

D E C I S I O N.

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Martha Albert for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Berkum for herself and minor children, Annie and Walter Berkum; by Henry Albert for himself and minor

children, Harry and Raymond Albert, thereafter, on October 31, 1902, there was filed with the Commission an affidavit showing the birth, on June 4, 1902, of Lewey Albert, son of the applicant, Henry Albert; by John Barnes for himself and minor child, Gussie A. Barnes, thereafter, on August 20, 1902, there was filed with the Commission an affidavit showing the birth, on June 15, 1902, of John A. Barnes, son of the applicant, John Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie and Nancy White, thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on March 8, 1902, of Amos White, son of the applicant, Lillie White; by Charles McLain for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain, thereafter, on September 1, 1901, there was filed with the Commission an affidavit showing the birth, on May 17, 1901, of Mattie McLain, daughter of the applicant, Malinda McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; and by George C. Bell for his wife, Maggie Bell, thereafter, on November 7, 1901, there was filed with the Commission an affidavit showing the birth, on September 18, 1901, of George L. Bell, son of the applicant, Maggie Bell.

THE RECORDS FURTHER SHOW: That on January 11, 1904, the Commission rendered its decision herein, denying said applicants, except Mattie McLain, whose rights to enrollment through an oversight, were not considered, the right to enrollment as Cherokee freedmen, and that on June 21, 1904 (Departmental letter I.T.D. 4732-04), said decision was duly affirmed by the Department; that, thereafter, on March 25, 1905 (Departmental letter I.T.D. 1332-05), on motion of the applicants, this case was reopened by the Department, and remanded for further testimony and readjudication; and that, thereafter, on April 13, and 27, and May 11, and June 22, 1905, further proceedings in the matter of said applications were had at Muskogee, Indian Territory.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Martha Albert, claims the right to enrollment as a Cherokee freedman by virtue of her compliance with the treaty stipulations of 1866, and that all the other applicants herein claim the same right as descendants of the said Martha Albert and one Jennie Barnes, deceased, who, it is alleged, complied with said treaty stipulations of 1866.

The following points are fully established by the evidence, no attempt having been made to disprove them:

(1) That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were full sisters, and were born prior to the commencement of the rebellion.

(2) That all the other applicants herein were born since the commencement of the rebellion, are lineal descendants of the applicant, Martha Albert, and the said Jennie Barnes, deceased, and possess no rights to enrollment as Cherokee freedmen o other than as such descendants.

( The records of this office fail to show that Ruth Barnes, mother of the applicants, Gussie A. and John A. Barnes, has ever made application for enrollment as a Cherokee freedman. Her mother, Millie White, and full sister, Viola White, and full brothers, Jim H. and Harry White, were originally listed for enrollment as Cherokee freedmen on Memorandum cards Nos. 10, 13, and 14, and were later transferred to Freedmen Rejected cards Nos. 317, 320 and 321. On April 24, 1906, their applications for enrollment as Cherokee freedmen were denied by the Commission, and record forwarded to the Department.

George C. Bell, father of the minor applicant, George L. Bell, was denied enrollment as a Cherokee freedman, by the Commission, on April 20, 1904, and on May 26, 1904, -Departmental letter I.T.D. 4050-04,- the Commission's decision was approved by the Department).

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the commencement of the rebellion, but, rather, that several years prior to the commencement of said rebellion, they, together with their mother "Nancy", were sold to one Dillingham, a citizen of the United States, were removed from the Cherokee Nation, and it is further shown that they did not return to said Nation on or prior to February 11, 1867. Excepting the Wallace and Kern-Clifton Rolls, none of the applicants herein can be identified on any roll of the Cherokee Nation in the possession of this office.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 ( 30 Stat., 495), Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A.

-4-

Barnes, John A. Barnes, Jerry Brown, Lillie Pate, Mattie White, Nancy White, Annie White, Malinda [illegible], Samuel Malone, Ella Malone, Christiana Malone, Charles Malone, Jasper Malone, Francis Malone, Mattie Malone, Frank Gardner, Jackson Barnes, Sarah Barnes, Maggie Williams, Minnie Barnes, Maggie Pate and George L. Pate, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

_____
Commissioner.

Dated at Muskogee, Indian Territory,
this _____

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

Mrs. Nancy Borkum,
McKey, I.T.
Cherokee F-D-101
Register.

COPY

Cherokee 3-1-13

Muskogee, Indian Territory, January 11, 1904.

Nancy Berlen,
McKay, Indian Territory.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and your two minor children, Annie and Walter Berlen, as Cherokee freedmen. There has heretofore been furnished your attorney, A. S. McKee, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's opinion.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Enc. 2-20
Registered.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

A. S. McRea,

Attorney for Martha Albert et al.,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cassie A. Barnes, John A Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Ames White, Melinda McLain, Samuel McLain, Lila McLain, Christiana McLain, Charles McLain, Turner McLain, Jeannette McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior

for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Enc. D-30

Register.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

W. W. Hastings,

Attorney for Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cussis A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles

Commissioner in Charge.

Enc. D-51

COPY.

Cherokee Freedmen:
D-42 et al.

Muskogee, Indian Territory, January 11, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Martha Albert et al., including the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah Branch, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lenny Albert, John Barnes, Dennis A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Nettie White, Fanny White, Anna White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jeanette McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Dell and George L. Dell, as Cherokee freedmen.

Respectfully,

T. B. Needles,

Through the Commissioner of Indian Affairs. Commissioner in Charge.

Enc. D-42.

Refer in reply to the following: COPY

Land 3385-1904.

DEPARTMENT OF THE INTERIOR,

OFFICE OF INDIAN AFFAIRS,

WASHINGTON, June 9, 1904.

In re

Application for enrollment

as Cherokee Freedmen, viz:

| | | |
|---|---|---|
| Martha Albert, etal. | F.D. 42 ) | |
| Robert Barnes, | F.D. 99 ) | |
| Lula Knalls, et al, | F.D. 100 ) | |
| Nancy Berkum, et al. | F.D. 101 ) | |
| Henry Albert, et al. | F.D. 102 ) | |
| John Barnes et al. | F.D. 103, ) | |
| Jerry Albert | F.D. 104, ( | Consolidated. |
| Lillie White, et al. | F.D. 105, ( | ---------- |
| Malinda McLain, et al. | F.D.114, ) | |
| Frank Gardner | F.D. 146 ) | |
| Joshua Barnes, | F.D. 150, ) | |
| Sarah Brown et al., | F.D. 151 ) | |
| Minnie Barnes, | F.D. 152 ) | |
| Maggie Bell, et al. | F.D 182. ) | |

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to transmit herewith the record of proceedings had before the Commission to the Five Civilized Tribes in the above consolidated cases of Martha Albert et al., affecting the rights of thirty six applicants for enrollment as Cherokee freedmen. The Commission by its decision, dated January 11, 1904, denied the application of all the applicants in the above named cases, to be enrolled as Cherokee freedmen.

The record shows thatapplications for enrollment as Cherokee freedmen were made to said Commission by Martha Albert for herself and minor children Elijah Albert and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and minor children, Sarah Franch and Fred E. Knalls by Nancy Borkum for herself and minor children, Annie Borkum and Walter Borkum; by Henry Albert for himself and miner children, Harry Albert and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes for himself and minor child, Gussie A. Barnes, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert for himself; by Lillie White forherself and minor children, Mattie White and Nancy White; that subsequent to the date of the original application, a birth affidavit,which is made a part of the record herein, was filed with the Commission, showing the birth of Amos White; by Charles McLain for his wife, Malinda McLain and his minor children, Samuel, Ella, Christian, Charles, Turner and Jennetta McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; by George C. Bell for his wife Maggie Bell, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George C. Bell. Claimants base their contention for a right to be

enrolled as Cherokee freedmen upon the claim made that the principal applicant Martha Albert and her sister, Jennie Barnes, now deceased, from whom the other applicants claim descent, were at the commencement of the War of the Rebellion the slaves of one Johnson Whitmire, a Cherokee citizen, that during the war these alleged slaves, Martha Albert and Jennie Barnes went South to Red river in the Choctaw Nation where they remained until the fall of 1866 when they claim to have returned with one Ellis Harlin to the Cherokee Nation and settled with him on the Gale Starr place near Cherokee Junction. The evidence adduced shows that Johnson Whitmire and George Whitmire, brothers and Cherokee citizens, owned before the war several slaves, designated as the "Whitmire darkies." The attempt to identify Martha Albert and Jennie Barnes as one of the "Whitmire darkies" at the commencement of the war has signally failed.

Watt Whitmire, son of Johnson Whitmire, who claims to have known the names of all the slaves of his father, testified that he had no recollection of any two female girl slaves named Martha and Jennie and cannot even recall the fact that his father ever owned a slave named Nancy Whitmire, the mother of said girls. Harry Still whose master was George Whitmire, brother to Johnson Whitmire who only lived four miles distant and knew all the colored people raised by Johnson Whitmire; testified positively that Johnson Whitmire did not own a slave named Nancy Whitmire nor a slave named Martha Whitmire. J. W. Alberty who lived in the Going Snake district, Cherokee Nation

before the war and who well knew Johnson Whitmire from whom he lived a distance of ten or twelve miles, testified, that the Whitmire boys, George Whitmire and Johnson Whitmire, at the time they divided up their property in 1847 sold a slave named Nancy Whitmire with her whole family to a man named Dillingham who moved them with his family right across the line into Arkansas at a town called Dutch Town or Salem where he remained until he moved to Texas in 1850-1; that he knew the darkies "better after Dillingham got them than I did before" and that Dillingham only lived five miles from where witness them lived. It is evident that the principal applicant Martha Albert and her sister Jennie Barnes were living in Arkansas instead of the Choctaw Nation at the close of the war as Jennie Barnes' husband testified that he married her in November, 1866, at Fort Smith, Arkansas, where it appears Jennie Barnes was hired out and where her husband worked much of his time after marriage. Martha Albert claims to have married her husband in the Choctaw Nation during the war while her husband denies having married her until after his return to the Cherokee Nation. The death of Nancy Whitmire, the mother of the principal applicant Martha Albert, is shown to have occured in 1866 but theplace of her burial is not definitely shown. The belief that the principal applicant, Martha Albert was living in Arkansas and not in the Choctaw Nation as alleged by her, is further strengthened by the testimony of Mrs. Ruth Hunt nee Ruth Harlin and Mrs. Emma Finley nee Emma Harlin, daughters of Ellis Harlin

with whom it is claimed Nancy Whitmire and her two dughters, Martha and Jennie returned from the Choctaw Nation to the Cherokee Nation in November 1866. Mrs. Hunt and Mrs. Finley testify positively to the fact that their father Ellis Harlin did not return to the Cherokee Nation until February or March 1867, and that no colored people returned in his company, that the first time they ever saw Martha Albert was in the "summer of 1867" when their father "went over in Arkansas somewhere towards Van Buren and hired the man to come and work", that the man's name was Albert and his wife's name was Martha, that neither the man nor his wife ever claimed to have once been the slaves of Johnson Whitmire whom witnesses knew before the war, nor did either claim to be a Cherokee freedmen that they ever heard of, until the roll was taken at Vinita in 1896 and applicants are identified as former hired help. John Melton testified that Martha Albert's husband told him, "he found her at the Harlin place." If that be true and Martha Albert admits that on her return she first settled on the Gale Starr place on which Ellis Harlin lived it is evident that she did not return to the Cherokee Nation until the "summer of 1867." In view of all the facts and circumstances of this case, this office is of the opinion that the principal applicant Martha Albert and her sister Jennie Barnes now deceased, of whom the other applicants claim to be descendants, were not the slaves of Cherokee citizens at the commencement of the War of the Rebellion nor were they free colored persons in the Cherokee Nation at the commencement of the rebellion and were not

they been, which is denied, it is shown that they went out of the Cherokee Nation and did not return thereto prior to February 11, 1867, in contravention of the treaty of July 19, 1866, which provides:

"All freedmen who have been liberated by voluntary act of "their former owners or by law, as well as all free colored persons "who were in the country at the commencement of the rebellion and "are now residents therein, or who may return within six months, "and their descendants, shall have all the rights of Native "Cherokees."

As the burden of proof lies upon claimants to establish their rights to recognition as Cherokee freedmen under the provisions of the treaty of July 19, 1866, and as they have failed to bring themselves within its purview, it follows that all of the foregoing applications as Cherokee freedmen must be denied.

We come now to the discussion of another point involved. It appears of record that the names of Martha Albert and her minor children Elijah and Ida are found upon the Kerns-Clifton roll while the names of several of the descendants are found upon the Wallace roll. None of the applicants names are to be found upon the authenticated roll of 1880 nor upon the census roll of 1896.

Attorney for applicants contends that as the name of Martha Albert and her minor children, Elijah and Ida appear upon the Kerns-Clifton roll, that such fact is conclusive of their rights as Cherokee freedmen and pleads res adjudicata to any action by the Commission. Such contention can not be maintained. Congress by Act of June 28, 1898, Sec. 21, directed the Commission

to the Five Civilized Tribes as follows:

"It shall make a roll of Cherokee freedmen in strict "compliance with the decree of the Court of Claims rendered the "third day of February eighteen hundred and ninety-six."

The Court in its decree of February 3, 1896 (See P.4), instructed said Commission as follows:

"The said Commissioners in ascertaining the identity of the "freedmen entitled to share under the decree, shall accept what is "known as the authenticated Cherokee roll, the same now being on file " in the office of the Secretary of the Interior, having been "furnished to him and purporting to have been taken by the Cherokee "Nation in 1880 for the purpose of showing the number of freedmen "then entitled to citizenship in the said nation under the terms "of the treaty between the United States and the Cherokee Nation "hereinbefore referred to, and their descendants, and no evidence "shall be accepted by said commission tending to disprove the "citizenship of any of the persons whose names appear upon "said roll", and supplementary thereto, Sec. 21, of the Act of June 28, 1898, states squarely the proposition that the roll of Cherokee citizens of 1880 (not including freedmen) is "the only roll intended to be confirmed by this and predeeding Acts of Congress", thus in effect declaring that the plea of res adjudicata can not prevail unless the name of the applicant appears upon the authenticated roll of 1880 - which is not here claimed. Neither the fact of claimant's name appearing upon the Kerns-Clifton roll nor the fact of the names of her descendants

appearing upon the Wallace roll, constituted any bar to further action by the Commission, as the Commission was expressly empowered by sec. 21 of the Act of June 28, 1898, to "investigate the right "of all other persons whose names are found on any other rolls "and omit all such as may have been placed thereon by fraud or with- "out authority of law, enrolling only such as may have lawful right thereto." Thus the Commission was left free to act, as upon a new inquiry, to determine what freedmen, omitted from the roll of 1880 but "whose names are found on any other rolls" are entitled to the benefit of Article 1X of the treaty of 1866. For the foregoing reasons, I concur in the opinion of the Commission that the applications for enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christian McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen, should be denied under the provisions of sec.21 of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is recommended that the decision of the Commission therein, dated January 11, 1904, be affirmed.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

GR

C

D.C. 21473-1904 W.C.F.

I.T.D. 4332-1904. J.P.

L R S FHE

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 21, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 11, 1904, you transmitted the recordin the consolidated case embracing the applications of Martha Albert et al (I.D.-42), for enrollment as Cherokee freedmen, including your decision of the same date, rejecting the applications.

Reporting June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letteris inclosed.

The Department affirms your decision, for the reasons stated therein.

Respectfully,

(Signed) E. A Hitchcock,

Secretary.

1 inclosure.

COMMISSIONERS
TAMS BIXBY.
THOMAS B. NEEDLES.
C. R. BREWSTER.

WM. O. BEALL,
SECRETARY

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

ADDRESS REPLY TO THE FOLLOWING
Cherokee Freedmen.
D-102.

Muskogee, Indian Territory, June 25, 1904.

Nancy Berkum,

McKey, Indian Territory.

Dear Madam:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and two minor children, Annie and Walter Berkum, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen
D-GF et al.

Muskogee, Indian Territory, June 28, 1904.

A. S. Mellen,
Attorney for Martha Albert, et al.,
Muskogee, Indian Territory.

Dear Sir:

You are hereby advised that the Commissioner's decision, dated January 11, 1904, rejecting the applications for enrollment of Martin, Elijah, Ida, Albert; Robert Harney; Lula Emalia, Sarah Drumb Fred H. Emalia; Henry, Henry, Raymond, Lewey, Albert;John, Jessie A. John A.; Harney; Jerry Albert;Lillie, Hattie, Henry, Anna, White; Emalia, Samuel, Ella, Charley, Turner, Jeanette, Christiana,Helen; Frank Gaither; Joshua Harney; Sarah Brown, Maggie Williams; Minnie Harney; Maggie, George L., Billy Henry, Annie, Walter, Barkus; was affirmed by the Secretary of the Interior on June 22, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-42 et al.

Muskogee, Indian Territory, June 28, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha, Elijah and Ida Albert; Robert Barnes; Lula Knalls, Sarah French, and Fred E. Knalls; Nancy, Annie and Walter Barnes; Henry, Harry, Raymond and Lewey Albert; John, Cassie A., and John A., Barnes; Jerry Albert; Lillie, Hattie, Nancy, and Amos White; Malinda, Samuel, Nila, Charles, Turner, Jeannette, Christiana, McKeiny Frank Gardner; Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George L. Ball; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

W. C. P.
FHE.

DEPARTMENT OF THE INTERIOR,

D. C. 16475-1905.
I. T. D. 1538-1905.

WASHINGTON. March 25, 1905.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department has considered a motion filed by attorneys Neal and London, of Fort Smith, Arkansas, dated December 10, 1904, to reopen the Cherokee enrollment case of Martha Albert, et al.

January 11, 1904, you decided that the applicants in said case were not entitled to enrollment, and on June 21, 1904, your decision was approved by the Department.

The attorneys desire the case reopened in order that newly discovered evidence may be introduced to show that previous to the breaking out of the war Johnson Whitmire owned two slaves by the name of Martha; that prior to the breaking out of the war one of said slaves was sold to a man named Dillingham who lived in Arkansas; that she married a man named Williams; that the other Martha, known as "Little Martha", who is one of the applicants in the case of Martha Albert, et al, married a man named Albert who lived in the Cherokee Nation. It is claimed by said attorneys that the evidence introduced by the Cherokee

Nation at the original hearing does not apply to the applicant herein.

It appears from the motion and the affidavits submitted that the case should be reopened. The motion is hereby granted. You will so notify the applicants and their attorneys and the attorney for the Cherokee Nation, and allow a reasonable time for the introduction of additional testimony, after which you will readjudicate the case.

The motion, the record and other papers in the case are inclosed.

Respectfully,

(Signed) E. A. Hitchcock

Secretary.

6 inclosures.

COMMISSIONERS:
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.
WM. O. BEALL,
Secretary.

DEPARTMENT OF THE INTERIOR.
COMMISSION TO THE FIVE CIVILIZED TRIBES.

Cherokee Freedmen
R-425.

ADDRESS ONLY THE COMMISSION TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, April 8, 1905.

Nancy Borkum,

McKey, Indian Territory.

Dear Madam:

In the matter of the application for the enrollment of yourself, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 25, 1905(I.T.D. 1332-1905), remanding this case for rehearing and readjudication.

You are, therefore, hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as you may desire in the matter of your said application. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

Commissioner in Charge.

Incl. S-81.
Register.

COPY.

Cherokee Freedmen

R-413, et al.

Muskogee, Indian Territory, April 8, 1908.

Neal & London,

Attorneys for Martha Albert, et al.,

Fort Smith, Arkansas.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 25, 1908 (I.T.D. 1332-1908), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 30, 1908, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED). T. B. Needles.

Commissioner in Charge.

Incl. R-413.
Register.

COPY.

Cherokee Freedmen

R-418, et al,

Muskogee, Indian Territory, April 8, 1908.

Bell, Hastings & Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that this Commission is in receipt of departmental letter of March 25, 1908 (I.T.D. 1332-1908), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 23, 1908, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED) T. B. Needles.

Commissioner in Charge.

Encl. 2-43

Refer in reply to the following:

Cherokee Freedmen
R- 425

DEPARTMENT OF THE INTERIOR,
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, July 24, 1905

Nancy Berkum,

McKay, Indian Territory.

Dear Madam:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, denying your application for the enrollment of yourself and your children, Annie and Walter Berkum, as Cherokee freedmen. There has heretofore been furnished your attorneys, Neal and London, Fort Smith, Arkansas, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Commissioner.

Encl. R-26

COPY. Cherokee Freedman R 418 et al

Muskogee, Indian Territory, July 24, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment as Cherokee Freedmen of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah Franch, Fred M. Knalls, Nancy Perkins, Annie Perkins, Walter Perkins Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Cassie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Hattie White, Nancy White, Ames White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennette McLain, Hattie McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Neil and George L. Neil, including the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1906, rejecting said applications.

On January 11, 1904, the Commission to the Five Civilized Tribes rendered its decision denying said applications,

Secretary--2-

excepting Hattie McLain, whose rights to enrollment were not at that time considered, and on June 21, 1904 (I.T.D. 4732-1904), said decision was affirmed by the Department. On March 25, 1905 (I.T.D. 1332-1905), this case was re-opened by the Department, and remanded for further hearing and readjudication.

Respectfully.

(SIGNED): Tams Bixby.
Commissioner

Through the
Commissioner of Indian Affairs.

COPY.

Cherokee Freedman
R 418 et al.

Muskogee, Indian Territory, July 24, 1905

Neal and London,

Attorneys for Martha Albert et al.,

Fort Smith, Arkansas.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrdlment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al., C.F.R. 418, Robert Barnes, C.F.R. 419, Lula Knalls et al., C.F.R. 420, Nancy Borkum et al., C.F.R. 425, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White et al., C.F.R. 424, Malinda McLain et al., C.F.R. 426, Frank Gardner, C.F.R. 430, Joshua Barnes C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes , C.F.R. 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Neal and London--2.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED) Tarris Bixby.

Commissioner

Incl. B-35

Cherokee Freedmen
D 416 et al.

COPY.

Muskogee, Indian Territory, July 24, 1905

Bell, Hastings and Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al., C.F.D. 418, Robert Barnes, C.F.D. 419, Lula Khalla et al., C.F.D. 420, Nancy Berkum et al., C.F.D. 420, Henry Albert et al., C.F.D. 421, John Barnes et al., C.F.D. 422, Jerry Albert, C.F.D. 423, Lillie White et al., C.F.D. 424 Malinda McLain et al., C.F.D. 426, Frank Gardner, C.F.D. 426, Joshua Barnes C.F.D. 427, Sarah Brown et al., C.F.D. 428, Minnie Barnes, C.F.D. 429, and Maggie Bell et al., C.F.D. 431. You have heretofore been furnished with a copy of the record of proceedings.

Bell, Hastings & Davenport--2

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

(SIGNED) Tams Bixby

Incl. 3-36

Commissioner

DEPARTMENT OF THE INTERIOR,

LAND
59345-1906. OFFICE OF INDIAN AFFAIRS,
WASHINGTON.

August 13, 1906.

The Honorable,

The Secretary of the Interior,

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated July 24, 1906, transmitting the report of the consolidated applications for enrollment as Cherokee freedmen by Martha Albert for herself and her minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Tuckle for herself and her minor children, Sarah Trimble and Ivie E. Tuckle; by Nancy Barnes for herself and her minor children, Annie and Walter Barnes; by Henry Albert for himself and his minor children, Harry, Raymond and Irene Albert; by John Barnes for himself and minor children, Minnie E. and John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and her minor children, Hattie, Henry, and Anna White; by Charles Watkins for his wife, Melinda Watkins, and his minor children, Emmett, Ella, Christiana, Charles, Bernice, Pennywin and Estella Watkins; by Frank Parker for himself; by Jackson Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself, and by George W. Bell for his wife, Virginia Bell, and his minor child George L. Bell.

July 24, 1905, the Commission decided adversely to all the applicants.

The record shows that on January 11, 1904, the Commission rendered a decision denying these applicants, except Mattie McClain inadvertently omitted, and that on June 21, 1904, the decision was affirmed by the Department; that thereafter, on March 25, 1905 (I.T.D. 2332-1905) the Department reopened and remanded the case for further testimony and readjudication.

The record further shows that the applicant, Martha Albert and Jennie Barnes, deceased, were full sisters, and were born prior to the beginning of the war of the rebellion; that all the other applicants were born since the beginning of the war, are lineal descendants of the applicant, Martha Albert and Jennie Barnes, deceased, and possess no rights to enrollment other than as such descendants.

It is further shown that the applicant, Martha Albert and Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the beginning of the war of the rebellion, and that they did not return to the Cherokee Nation on or before February 11, 1867.

Excepting the Wallace and Kere-Clifton, none of the applicants is identified on any roll of the Cherokee Nation.

In view of the record the approval of the Commission's decision adverse to all of the applicants is recommended.

Very respectfully,
E. B. Linebaugh,
Acting Commissioner.

M.M.M.
W.

-COPY- C.R.

DEPARTMENT OF THE INTERIOR, LLB

D.C. 22958. WASHINGTON.
I.T.D. 4738-1904.
1332-1905.
6760- "
10288- "
L.R.S.

June 2, 1906.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

July 24, 1905, you transmitted the remanded record with your readjudication in the matter of the consolidated applications for the enrollment of Martha Albert et al. as Cherokee freedmen, including your decision of same date, adverse to all the applicants.

August 12, 1905, the Acting Commissioner of Indian Affairs reporting thereon, recommended that your decision dated July 24, 1905, adverse to all the applicants named in his said letter, be approved. A copy of his letter, including the names of applicants affected by this decision, is inclosed.

The Department concurs in the recommendation made and your decision dated July 24, 1905, denying the application for the enrollment of Martha Albert and others named in Indian Office letter of August 12, 1905, is hereby affirmed.

A motion for review of said decision filed with the

Department on September 7, 1906, by Messrs. Elue & Bulger and McGowan, Serven & Mahun, attorneys for moving parties therein, is hereby denied.

Respectfully,

Jesse H. Wilson,

Assistant Secretary.

1 inclosure.

REFER IN REPLY TO THE FOLLOWING:

Cherokee Freedman
R 425

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 15, 1906.

Nancy Berkum,
McKey, Indian Territory.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting, among others, your application for the enrollment of yourself and children as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion for review of your case filed September 7, 1905, is denied.

Respectfully,

Commissioner.

MMP

Cherokee Freedman
R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Blue & Bulger,

Attorneys for Martha Albert,

Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 8, 1906, and that the motion filed by you September 7, 1905 for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

Tams Bixby.
Commissioner.

Encl. P-17
MMP

Cherokee Freed-
men R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED)

Tams Bixby.

Commissioner.

Incl.P-16
MCP

Cherokee Freedmen
R 418

COPY.

Muskogee, Indian Territory, June 15, 1906.

Neal & London,
Attorneys for Martha Albert,
Ft. Smith, Arkansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1906, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED.

Tams Bixby.
Commissioner.

Incl.P-15
MMP

Department of the Interior,
Commission to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

12.309
1135-5

Nancy Borkum,
McKey, Indian Territory.

REGISTRY DIVISION
APR 8 1905
MUSKOGEE, IND. TER.

C.R. 42

Department of the Interior.
Commission to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

MUSKOGEE, IND. TER.
JUN 29
5 — P

RETURN TO WRITER

Nancy Borkum,
McKey, Indian Territory.

R 425

Department of the Interior.
Commission to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

MCKEY
IND. T.

MUSKOGEE
JUL 25
PM

RETURN TO WRITER

Nancy Borkum,
McKey, Indian Territory.

37-425

Department of the Interior.
Commission to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

MUSKOGEE
JUL 12
5
1905

RETURN TO WRITER

37-425

Nancy Borkum,
McKey, Indian Territory.

Cher Fr R 426

See Cher Fr R 418 thru 425 and
427 thru 431

Cher Fr R 426

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I. T. April, 19th 1901.

In the matter of the application of Charles McLain for the enrollment of his wife MALINDA and his six children as Cherokee Freedmen- He being sworn by Commissioner T. B. Needles, testified as follows:

Q What is your name? A. Charles McLain.
Q What is your age? A. About 35.
Q What is your post office address? A. Dora, Arkansas.
Q What district do you live in? A. Sequoyah
Q Do you apply for enrollment as a Cherokee Freedman? A. No sir.
Q Who is it that you want to apply for? A. My wife
Q Dont apply for yourself then? A. No sir.
Q What is your wifes name? A. Malinda.
Q What is her age? A. 34.
Q What is her fathers name? A. Collen Albert.
Q What is her mothers name? A. Martha Albert.
Q Are they living? A. Yes sir.
Q You dont apply for the enrollment of any children? A. Yes sir six
Q What are their names? A. Samuel.
Q How old? A. 14.
Q Next? A. Ella
Q How old? A. 12.
Q Next? A. Christiann.
Q How old? A. 10.
Q Next? A. Charles.
Q How old? A. 9.
Q Next? A. Turner.
Q How old? A. 4.
Q Next? A. Jennetta.
Q How old? A. 3.
Q Where is your wife? A. She is at home sick.

The Kerns-Clifton roll of the Cherokee Nation examined and the name of applicant's wife and some of his children identified thereon as follows:
Page 160, No. 3940, Malinda McLean, Sequoyah district.
Page 160, No. 3941, Samuel McLean, Sequoyah district.
Page 160, No. 3942, Ella McLean, Sequoyah district.
Page 160, No. 3944, Charley McLean, Sequoyah district.
Page 160, No. 3945, Christian McLean, Sequoyah district.

The 1880 authenticated roll of the Cherokee Nation examined and the name of applicant's wife and children not found thereon.

The 1896 census roll of the Cherokee Nation examined and the name of the applicant's wife and children not found thereon.

Q Is your wife an acknowledged citizen of the Cherokee Nation? A. No sir, only on the Wallace and Kerns-Clifton rolls.
QWere her father and mother ever recognized by the Cherokee authorities as Cherokee Freedmen? A. No sir. Only by the Government
Q They have applied for their own enrollment have they? A. Yes sir

By Com'r Needles,-

Charles McLain applies for the enrollment of his wife Malinda and for the enrollment of his six children, Samuel, Ella, Christiann, Charles, Turner and Jennetta McLain. All of said names are found on the Kerns Clifton roll except Turner and Jennetta McLain, and he files satisfactory proof as to their births. The name of his wife

cannot be found on the authenticated roll of 1880 or the census roll of 1896. He avers that she was the child of Colley and ~~McKinney~~ Martha Albert, and reference is made to the testimony in case Cherokee Freedman Card, R.42.

Q. Are these children living at this time? A. Yes sir.
Q Were they born and raised in the Cherokee Nation? A. Yes sir.
Q Does your wife live in the Cherokee Nation now? A. Yes sir.
Q Has she lived there all her life? A. Yes sir.

(Continuation of Judgment )

Satisfactory proof is made as to the residence of the applicant's wife and children, but by reason that they are not on the authenticated roll of 1880, and no satisfactory proof is made as to the citizenship, either of the applicant's wife or of her mother, the said Malinda McLain and her six children as enumerated herein will be placed on a doubtful card as Cherokee Freedman, to await further consideration of their case.

* * * * * * * * *

Chas. von Weise, being sworn states that as stenographer to the Commission to the Five Civilized Tribes he reported in full all he rpoceedings in the above cause and that the foregoing is a full, true and correct transcript of his stenographic notes therein.

Chas von Weise

Subscribed and sworn to before me this the 19th of April, 1901, at Fort Gibson, I. T.

Commissioner.

DEPARTMENT OF THE
COMMISSION TO THE
APR

MEMORANDUM OF APPLICATION.

# CHEROKEE FREEDMEN.

Date APR 19 1901

Post Office Vinita Ark.

District Sey.

1. Name ~~Charles McLain~~ 26

Owner's name ..... Citizenship .....

Year ..... Page ..... No. ..... District .....

Parents:

Father ..... Citizenship .....

Mother ..... Citizenship .....

1. Name of wife Melinda McLain (Melinda McLain) Age 34

Owners name ..... Citizenship .....

Year K.C. Page 160 No. 3940 District Sey.

Parents:

Father Colby Albert Citizenship Col

Mother Mattie Albert Citizenship Col

Names of Children:

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 2. | Samuel | McLean | Year K.C. | Page 160 | No. 3941 | Dist. Sey. | 14 | X |
| 3. | Ella | McLain | Year K.C. | Page 160 | No. 3942 | Dist. | 12 | |
| 4. | Charles | " | Year K.C. | Page 160 | No. 3944 | Dist. " | 9 | |
| 5. | Turner | " | Year | Page | No. | Dist. | 4 | |
| (6) | Jeanetta | " | Year | Page | No. | Dist. | 3 | |
| (7) | Christiana | " | Year K.C. | Page 160 | No. 3943 | Dist. Sey. | 10 | X |
| 9. | | | Year | Page | No. | Dist. | | |
| 10. | | | Year | Page | No. | Dist. | | |
| 11. | | | Year | Page | No. | Dist. | | |
| 12. | | | Year | Page | No. | Dist. | | |

Application made by Charles McLain Stenographer Van Weise Clerk

(1) "Melinda McLean" on K C Roll Sey

(2) "Samuel McLean" on K C Roll

(3) "Ella McLean"

(4) on K. C. Roll "Charley McLean"

(5) Affidavit of Birth filed

(6) " " "

~~(7) Christ~~

(7) on K. C. Roll on "Christian McLean"

( C O P Y )

To be filed in the case of Malinda McLain.

Department of the Interior,
Commission to the Five Civilized Tribes,
Ft. Gibson, I. T. April, 10, 1901.

In the matter of the application of Martha Albert for the enrollment of herself and two children as Cherokee Freedmen- being sworn and examined by Commissioner Needles, she testified as follows:

Q What is your name? A, Martha Albert.
Q How old are you? A. About 454 or 5 years old.
Q What is your post office address? A. Melvin.
Q What district do you oive in? A. I live in Tahlequah district, now, but I have been living in Sequoyah.
Q Do you apply to be enrolled as a CherOkee Freedman? A. Yes sir.
Q Did you ever apply to be enrolled as a Freedman of my other tribe or Nation? A. No sir.
Q Have you been recognized by the Cheroke authorities as a Freedman? A Yes sir.
Q Is your name on the authenticated roll of 1880? A. I dont know.
Q Who do you want to enroll besides yurself? A. I have got two childre
Q What are the names of your children? A. Elijah Albert, 19 years old. Ida Albert, 18 years old.
Q Are you married? A. Yes sir.
Q Mat is your husbands name? A. Wally Albert.
Q Is he a citizen? A. Well, he has been raised by the,.
Q Is he living? A. Yes sir.
Q Where is he? A. He is down town.
Q Were you a slave? A. Yes sir.
Q What was your owner's name ? A. Johnson Whitmire.
Q Where were you at the beginning of the war between the Confederacy and the United States?A.. Seinganake.
Q Were you taken outof the Nation during the war? A. Far as Red river
Q This side of the other side of Red River? A. This side.
Q When did you come back? A. In '66.
Q You have been living down here ever since '66? A. Yes sir.
Q What was your name before you were married? A. I went by my owners name, Martha Whitmire; I always goes by the name of Mat now .
Q Your name though is Martha? A. Yes sir.
Q Have you ever lived in Coowescoowee district? A. No sir.
Q What is the reason your name aint on the roll of 1880? A. I don't know; you know how ignerant people was, did'nt know how to go at such business.
Q You say you were a slave of Johnson Whitmire? A. Yes sir
Q And that you came back to the Cherokee Nation in '66? A. Yes sir
Q You sure it was '66? A. Yes sir.
Q You think it was not'76? A. No sir '66.
Q You wasn't here in '65? A. No sir.

Examined by Cherokee Representative, James Davenport:

Q Who did you come back to the Cherokee Nation with when you came back? A. With Ellis Harlin.
Q Where did you go first when you came back? A. I stopped right down on the Gale Starr place where the Cherokee Junction is now.
Q Stopped on the Arkansas side didn't you? A. No sir I didn't.
Q How long did you live in Fort Smith? A. Never lived in Fort Smith any.
Q How long did you stay there? A. I staid there 2 years, and then went to Lee's Creek.
Q Who did you live with there? A. Cherokee family there, named Allison and Mrs. Franklin and all of the,
Q Where was Hickory Starr living at that time? A. In Flint.
Q You didn't go up to Flint? A. No sir.

Q Well did you go to Goingsnake District? A. No sir.
Q You just went to Sequoyah district and remained there? A. Yes sir.

Examined by Commissioner Needles,

Q Have you got anybody here that knows you and knows you were here in '66. A. Yes sir, Mandy Benton and John Melton.

JOHN MELTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A. John Melton.
Q How old are you? A. 64.
Q What isyour post office address? A. Bunge.
Q Are you a Cherokee Freedman? A.Yes sir.
Q Have you always lived in the Cherokee Nation? A. Yes sir.
Q You know Mattie Albert? A. Yes sir.
Q Was she a slave during the war, or before the war? A. Now I don't know.
Q When did you first know her? A. About '67, early in '67; I saw her husband in '66 sometime, and had a talk with him; he said he found her at the Harlin place; I often heard talk of them being down there, but I never see them for a few months after.
Q When did you first see her? A. Early in '67
Q Early as January? A. No sir.
Q Sometime in the Spring? A. Yes sir, along in the spring.

Examined by Cherokee Representative, James Davenport-

Q You dont remember what time in '67 you saw her? A. No sir, not exactly.
Q You dont know where they were during the war? A. No sir.

MANDY BENTON, being sworn and examined by Commissioner Needles, testified as follows:

Q What is your name? A. Mandy Benton.
Q How old are you? A. About70.
Q What is your post office? A.Bunge.
Q You are a Cherokee Freedman are you? A. Yes sir.
Q You know Mattie Albert? A. I have been knowing her ever since the surrender.
Q You know where she was at the close of the war between the Confederacy and the United States? A. No sir, I dont think I do.
Q Where did you first get acquainted with her? A. On the Harlin place
Q What year was that? A '66.
Q Was she there in '66? A. Yes sir.
Q You know whether she has been a slave or not? A. Yes sir, she was a slave.
Q You know who her owner was? A. Whitmire.

Examined by Cherokee Representative James Davenropt.

Q What makes you remember that it was in '66 when yours first got acquainted with her? A. Well, just by paying attention to others talking I reckon, and knowing it was that time.
Q How long after the surrender was it you got acquainted with her?
Q Well really I dont know .
Q Was it two years or three years? A. It might have been a year and maybe not so long; I don't remember.
Q Where was she living when you got acquainted with her? At the Harlin place.
Q Where is the Harlin place, I dont know Mandy? A. It is in Sequoyah
Q With whom was she living at that time? A. With her husband and her children.
Q How many children had she? A. I dont know how many children she had.

Q How far were you living from where she was living at that time? A. I guess it's about very near two miles.
Q You remember any of the Cherokee families living in that locality where she was living? A. No.
Q You dont remember anything about it except it was '86 you got acquainted with her? A. Emma Hawlin was living there then I think, if I mistake not.
Q Was Cale Starr living there? A. I don't know-I remember—
Q You know Cale Starr? A. Yes sir. I would like to get it straight;I tell you I have had so much trouble since that time I dont remember.
Q You dont know whether it was '86 or 76? A. It was '86.

Examined by Cherokee Representative W. W. Hastings-

Q It was before the treaty was it aunty that you got acquainted with her? A. I guess it was.
Q Now, aunty, you don't know anything about years do you? A. I forget them.
Q You didn't know anything about years then did you? A. Oh I guess I was here; I know a little something about it.
Q What year is this? A. Now I disremember.

Examined by Commissioner Needles,-

Q You are pretty positive though that you saw this woman in '86? A. I sure is.

1880 authenticated roll of citizens of the Cherokee Nation examined and applicant not identified thereon.
1896 census roll of citizens of the Cherokee Nation examined and applicant not identified thereon.

Kerns-Clifton Pay roll of citizens of the Cherokee Nation examined and applicants identified thereon as follows:
page 3954, Mattie Albert Sequoyah district.
Page 159, #3956, Elijah Albert, Sequoyah district.
page 159, #3957, Ida Albert, Sequoyah district.

Q Have these children always lived in the Cherokee Nation? A. Born and raised here.

Com'r Needles,- The name of Mattie Albert and her children Elijah and Ida are found upon the Kerns-Clifton roll;their names do not appear upon the authenticated roll of 1880 nor the census roll of 1896, they are duly identified; now comes the Cherokee Nation, and protests against their enrollment, consequently, final judgment will be suspended as to the enrollment of said Mattie and her children and their names will be placed upon a doubtful card.

= = = = = = = = = = = = = = =

M. D. Green, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case and that the foregoing is a true and complete transcript of his stenographic notes thereof.

M. D. Green.

Subscribed and sworn to before me this April, 11, 1901.

T. B. Needles,

Commissioner.

• • • • • • • • • • • • • • •

Martha Albert A.

I, [illegible] was [illegible] in the examination in the above-entitled matter, and that the above and foregoing is a full, true and correct [illegible] of the original testimony and proceedings in the above-entitled cause, said original transcript having been made by K. B. Brown as stenographer.

[illegible]

Subscribed and sworn to before me this 9th day of April, 1931, at Fort Gibson, I. T.

[illegible]

Notary Public.

To be filed in case of Malinda McLain D 114.

Department of the Interior.
Commission to the Five Civilized Tribes.
Ft. Gibson, I. T., April 18, 1901.

In the matter of the application of Martha Albert for enrollment as a Cherokee Freedman; she being sworn and examined by Commissioner Breckinridge, testified as follows:
Supplemental testimony D - 42.

Q Give me your full name. A Martha Albert.
Q How old are you? A I don't exactly know; I hold myself for about 57 years old.
Q What is your postoffice ? A Melvin.
Q In what district do you live? A I live in Tahlequah District.
Q Do you want to be enrolled as a Cherokee Freedman? A Yes sir.
Q Who do you want to enroll besides yourself? A I want to enroll six children.
Q Are they all under 21 years of age? A No sir, they are all married but two.
Q Then you want to enroll those two? A Yes sir.
Q Have you a husband? A Yes sir.
Q Do you want to apply for his enrollment also? A No sir.
Q How long have you lived in the Cherokee Nation? A Been living here _ I was born and raised here.
Q Lived here all your life? A Yes sir.
Q Have you applied before? A Yes sir, I didn't put my children on; I wasn't satisfied the way I went in for.
Q So you want to apply again? A Yes sir.
Q Why didn't you apply for your children when you applied before for yourself? A The witnesses couldn't stay.
Q You didn't have your evidence in good shape? A No sir.
Q I have here your enrollment card and it appears that you did apply for two children, one Elijah and one, Ida? A Yes sir.
Q Are those the names of your children? A Yes sir.
Q What you want to give now is some additional testimony? A Yes sir.
Q What witnesses do you want to introduce now? A Henry Brown and Andrew Crossland.

Henry Brown, being sworn and examined by Commissioner Breckinridge, testified as follows:
Q Give me your full name. A Henry Brown.
Q How old are you? A I am suppose to be about 44 years old.
Q What is your postoffice? A Vian.
Q In what district do you live? A Illinois.
Q How long have you lived in the Cherokee Nation? A I lived here all my life, only the time of the war.
Q You were out during the war, were you? A Yes sir.
Q Where did you go? A Chickasaw Nation.
Q You lived in the Cherokee Nation before the war? A Yes sir.
Q Well you were quite a child during the war? A I was about 12 or 13 years old during the time of the war; maybe 16; I don't know my age exactly.
Q What time did you come back to,the Cherokee Nation, the time during the war? A They said it was in the fall of '65.
Q You came from the Chickasaw Nation? A Choctaw rather.
Q Then you never were out of the Indian Territory during the war? A No sir.
Q Do you know an applicant here, Martha Albert? A She used to go by the name of Whitmire.
Q Is she known as Albert now? A Yes sir, by her husband's name.
Q Did she belong to a man named Whitmire before the war? A That's what they claim they belonged to Whitmire.
Q Were you a slave before the war? A Yes sir.
Q Who did you belong to? A John Brown.
Q What was Whitmire's full name, do you remember? A I don't know his full name.
Q Johnson Whitmire? A I heard that name, yes sir; I heard him

called by that name.
Q Well, now, in those days did you live near Whitmire's place? A No sir, I lived at that time in Canadian District.
Q How far from Whitmire's place? A That's - I don't know how many miles. They claimed before the war something like forty miles; I don't know.
Q You come back to the Cherokee Nation when? A In the fall of '65.
Q When did you first see Martha Albert, as she is called now, after you come back? A Ir was in '66 as near as I can remember; I saw her at old Jack Campbell's church house.
Q You can't be certain what year it was? A No sir, but I think it was in '66.
Q Have you known her pretty well ever since that time? A I have been seeing her off and on; I lived in Illinois and they used to live in Sequoyah.
Q Has she been living in the Cherokee Nation ever since you saw her then? A That is where I have been seeing her.
Q About how often would you see her, once a year or once every five or ten years? A I couldn't say how often; it wasn't often.
Q But you have seen her some since? A Yes sir, some since I come back after the war.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q Did you ever see this woman before the war? A No sir, never seen her before the war.
Q You never knew her then? A No sir.
Q The first time you ever saw her was after the war? A Yes sir.
Q And you never heard her personal name? A No sir.
Q You don't know that this woman was among them, the Whitmires? A No sir, I don't know.
Q I mean among them after the war when you saw her? A I only knew that they were Whitmire's darkies.
Q Did you know her personally? A No sir.
Q Did you know herafter the war? A Yes sir, I saw hr at this church.
Q The first time you saw the Whitmire darkies, you don't remember this woman personallyexcept seeing her in the corwd? A I saw her with the Whitmire'darkies.
Q Were they at the church house there at that time? A Yes sir.
Q Colored Church? A Yes sir.
Q Do you remember that this woman herself, individually, was among them? A No, only that they said they were Whitmires
Q You don't remember this woman personally except the Whitmires generally that were there? A They said they was the Whitmire darkies.
Q Did you see this particular individual colored woman at that time in '66? A As near as I said it was '66, that was the day I saw her at the church as a Whitmire.
Q Did you see this particular woman? A Yes sir.
Q Do you think you saw her in '66? A As near as I can come at it.
Q You are not positive? A I am satisfied that it was '66.
Q What makes you fix that date? A Because I think it must have been near that time. It was the time I moved on Canadian. I was living there.
Q You were living in Canadian then? A Yes sir.
Q What were you doing down there? A I was in the Court at Fort Smith.
Q Who was preaching there? A I didn't go there; I just heppened to be around there and Harry Foreman.
Q You don't know who preached? A No sir.
Q You didn't know this woman before? A No sir.
Q Why was it that this woman among a whole crowd of darkies was pointed out to you and why do you remember? A Because I heard it was the Whitmire darkies.
Q There was a number of them? A She was a particular one, he said was a Whitmire darkey.

Q What makes you remember that? A Because he said so.
Q Was she married then? A I don't know whether she was or not.
Q You don't remember of seeing her husband then? A No sir, I don't.
Q Where was that church? A Jack Town, this side of the river.
Q How far from the Payne place? A Six or seven miles this way from the river.
Q By Cherokee Junction? A Yes sir.
Q You don't know who she come back with? A No sir.
Q You don't know how long she's been back? A No sir.
Q What time of the year was it you saw her? A As near as I can say it was '66.
Q Spring, summer or fall? A Along in August of '66.

Commissioner-
Q You were a stranger down there in that neighborhood? A No, not exactly I knowed some of the people down there.
Q How far did you live from there? A 45 or 6 miles.
Q Had you ever lived in that neighborhood? A I used to stay there a while after the war by Dr. Campbell place.
Q Did you visit or live there? A When I come there, I came from Fort Smith and stopped at Campbell's.
Q How long did you stay there? A Several months.
Q Were you acquainted with many of the Whitmire darkies as you call them? A No more than just heard them as Whitmires when I was at the church.
Q And there were a lot of them there and they said they were Whitmire people? A Yes sir.
Q There seemed to be a lot of them? A This woman said she was a Whitmire and Charley Whitmire; they called them the Whitmire Darkies.
Q How long after that was it before you seen this woman again? A I couldn't say how long it was afterwards; it was some times afterwards.
Q Some years? A No years.
Q When were you down there again? A Several times after that.
Q You have been down there several times since that time you were at the church and the present day? A Yes sir, several times.
Q Well, about how long after being at the church before you went there again? A It must have been; I couldn't say, I stopped by Jacktown and would be on this side of the river. I can't say.
Q Were there a n umber of these Whitmire peopled people down there? A They were acknowledged to be Whitmire pagans. They claim to be several of them; the ones I speak of is the one I saw that Sunday.
Q Were there quite a number of them? A They claim there was a good number of them.
Q You saw a good many who were claimed to be Whitmire people? A Yes sir, Whitmire Darkies.
Q What impressed this woman on your mind? A Harry Foreman pointed her out to me as a Whitmire.
Q You weren't acquanited with her? A No sir, only saw her that Sunday.
Q He pointed her out and others as belonging to the Whitmire crowd? A Yes sir.
Q Do you think that made enough impression on your mind passing there to remember her during all this time, you living forty miles away? A I saw her since then; that wan't the only time I saw her.
Q You can't say for certain what year it was you were down there? A No sir, as near as I can remember, I claim it must have been '66.
Q And this is as far as you can go? A Yes sir, in being honest.

Examination by W. W. Hastings, representative of the Cherokee Nation-
Q I believe you stated that you attended Court at Fort Smith?
A Yes sir.
Q What trial? A Brother Green.

Q Was he tried at Fort Smith that year? A Yes sir.

Commissioner-
Q That is the year you claim you saw the women at this church?
A Yes sir.
Q Remember we are talking about the year you saw the Waltmire people? A I think it was in '88.
Q I am not asking you about that, we are trying to locate what business you had in the Court at Fort Smith in the year that you were at the church - what business took you to Fort Smith that particular year? A I couldn't say what year.
Q I never asked you about the year, I asked you about the business?
A As a witness.
Q In what case?m A Green Lowry.

Examination by W. W. Hastings-
Q What Judge tried that case? A Judge Parker.
Q At Fort Smith? A Yes sir.

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The undersigned, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the testimony and proceedings in this case, and that the foregoing is a full, true and correct transcript of his stenographic notes thereof.

E. Rothenberger

Subscribed and sworn to before me this 27th day of April, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED

MAY 15 1901

ACTING CHAIRMAN

Indian Territory

Cherokee nation.

I, A. S. McRea, attorney for the within named applicant do hereby accept service of the within notice to take testimony this the 13th day of May 1901.

A S McRea

Atty for within named applicant.

# NOTICE!

In the matter of the application of Malinda Mc Lain et al for enrollment as a Cherokee Freedman.

Case No. D 114.

To Malinda Mc Lain ~~et al~~

You are hereby notified that the Cherokee Nation will present before the United States Commission to the Five Civilized Tribes testimony on behalf of the Cherokee Nation tending to disprove your right to be enrolled as a Cherokee Freedman, at the office of the United States Commission to the Five Civilized Tribes in the town of Vinita Indian Territory, on the following dates, to-wit: May 21st & 22nd A. D. 1901, during the usual business hours of said commission on the respective days above named, for the taking of testimony both for and against applicants for enrollment as Cherokee Freedmen.

In testimony whereof, the undersigned representatives of the Cherokee Nation have hereunto set our hands on this 13th day of May 1901.

L B Bell
W W Hastings
J S Davenport
Attorneys for the Cherokee Nation.

United States of America,
Indian Territory,
Northern District. } S. S.

I do solemnly swear that I delivered a true copy of the within notice to ..... on the ..... day of ..... A. D. 1901.

Subscribed and sworn to before me this ..... day of ..... 1901.

..... Notary Public.

COMMISSIONERS
HENRY L. DAWES.
TAMS BIXBY,
THOMAS B. NEEDLES,
C. R. BRECKINRIDGE.

ALLISON L. AYLESWORTH,
SECRETARY.

# DEPARTMENT OF THE INTERIOR,

COMMISSION TO THE FIVE CIVILIZED TRIBES.

Vinita, Indian Territory, May 15th, 1901.

Received of the Commission to the Five Civilized Tribes one copy of the original testimony in the matter of the application of Malinda McLain et al for enrollment as Freedmen of the Cherokee Nation, one copy of the original and one copy of the supplementary testimony in the case of Martha Albert et al for enrollment as Freedmen of the Cherokee Nation; the testimony in the case of Martha Albert et al having been made a part of the record in the case of Malinda McLain et al.

A S McRea

Atterney for Applicants.

Cherokee F. #D114.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES

FILED
AUG 22 1901

ACTING CHAIRMAN

To be filed with case of Malinda McBain, C. F. D.#114.

SUPPLEMENTAL TESTIMONY.

F.D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
VINITA, I.T., [illegible], 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MAH THA ALBERT, et al., as Cherokee Freedmen.

RUTH HUNT, being sworn and examined by Commissioner T. B. Needles, testified as follows:

APPEARANCES:
A. S. Mehan, Attorney for applicants;
W. W. Hastings, Cherokee Representative.

Q What is your name? A Ruth Hunt.
Q How old are you? A 44.
Q What is your post office address? A Vinita.
Q What is your maiden name? A Martin.
Q By W. W. Hastings: Mrs. Hunt, what was your maiden name?
Q What was your father's name? A Riley Martin.
Q What was your mother's name? A Nancy Martin.
Q Where did you go during the war of the Rebellion?
A Fort Smith, Arkansas.
Q After the war did you return to the Cherokee nation? A Yes, sir.
Q When did you return to the Cherokee nation? A 1867.
Q What time of the year? A It was either February or March, I don't remember which.
Q Not '67? A Yes, sir.
Q Did any colored people return with you to the Cherokee Nation when you came back? A No, sir.
Q Did you return with your father? A Yes, sir.
Q In about what did you return? A About four miles this side of Fort Smith, on the line of Arkansas, about a quarter of a mile from the line, Arkansas line.
Q Did you know a colored woman by the name of Mattie Albert who is the wife of Colby Albert? A There was a man worked for us by always called him Albert, I don't know what his other name was, his wife was named Martha; he worked for us that summer we came back.
Q The summer of '67? A Yes, sir.
Q Did they return with you? A No, sir.
Q Were they ever there on the place where you returned? A No, sir.
Q Do you know where they came from? A No, sir, I don't [illegible] went over in Arkansas somewhere and hired the man to come and work, and I don't remember where he got him. He had a son at work for us and the son quit and he went over [illegible] and got this man, he and his wife [illegible] I don't know.
Q Did any colored people [illegible] with you? A No, sir.
Q You brought no colored people back with you? A No, sir.
Q Did those people claim to be Cherokee freedmen?
A I never heard it; if they did I don't remember hearing about them claiming.
Q Do you know what became of them after they left your place?
A No, sir. I never seen or heard [illegible] them until they were taken the roll at Vinita here [illegible].
Q In 1880? A Yes, sir, that is the only time I have ever heard of them since.
Q Are you a Cherokee citizen by blood? A Yes, sir.
Q What county of Virginia? A [illegible], sir.

CROSS EXAMINATION BY A. S. MEHAN:

Q Mrs. Hunt, did you know the applicant, Mattie Albert, before the war? A No, sir.
Q Do you know her at all? A I don't know her only just as far back as 1867; I remember there was a man worked for us by the name of Albert, we called the woman Martha and the man Albert, they worked for us here during the summer of 1867, that is all I know about it.
Q You don't know whether she is the one who belonged to Johnson Whitmire before the war or not? A No, sir, I don't know; I never heard her say that she belonged to the Whitmires before the war.
Q Did you know the Whitmires? A Yes, sir.
Q Did you know any of their slaves? A I can't remember them, I knew them but I can't remember them.
Q Now, this man Albert that worked for your father, you don't know his given name? A No, sir; we just called him Albert, and I don't remember what his other name was.
Q You don't know whether Albert was a given or surname? A No, sir; I don't know which it was.
Q Would you know the same persons if you would see them again? A I don't think I would, it has been so long.

RE-DIRECT EXAMINATION by Mr. Hastings:

Q How far did you live from Johnson Whitmire before the war?
A About ten or 12 miles. I knew the family and I guess knew the slaves, I don't remember them now.
Q I believe you said you were 54, that would make you be born in 1847; you would be about 13 years old when the war came up?
A Yes, sir.
Q I was going to ask you if you lived in ten or twelve miles of Johnson Whitmire and if this woman had belonged to him before the war, it is quite likely you would have known that in 1867?
A It seems that she would have known people that I did and would have said something about it. I went to school with Whitmire's children and have been at Ben Whitmire's house and I guess would remember some of the names if I heard them recalled, but I can't remember them now.
Q You didn't recognize this woman? A No, sir, I would not recognize her now.
Q You didn't recognize her then as belonging to Johnson Whitmire?
A No, sir.
Q Never heard her remark about it? A No, sir.

EMMA FINLEY, being duly sworn by Commissioner T. B. Needles, testified as follows:

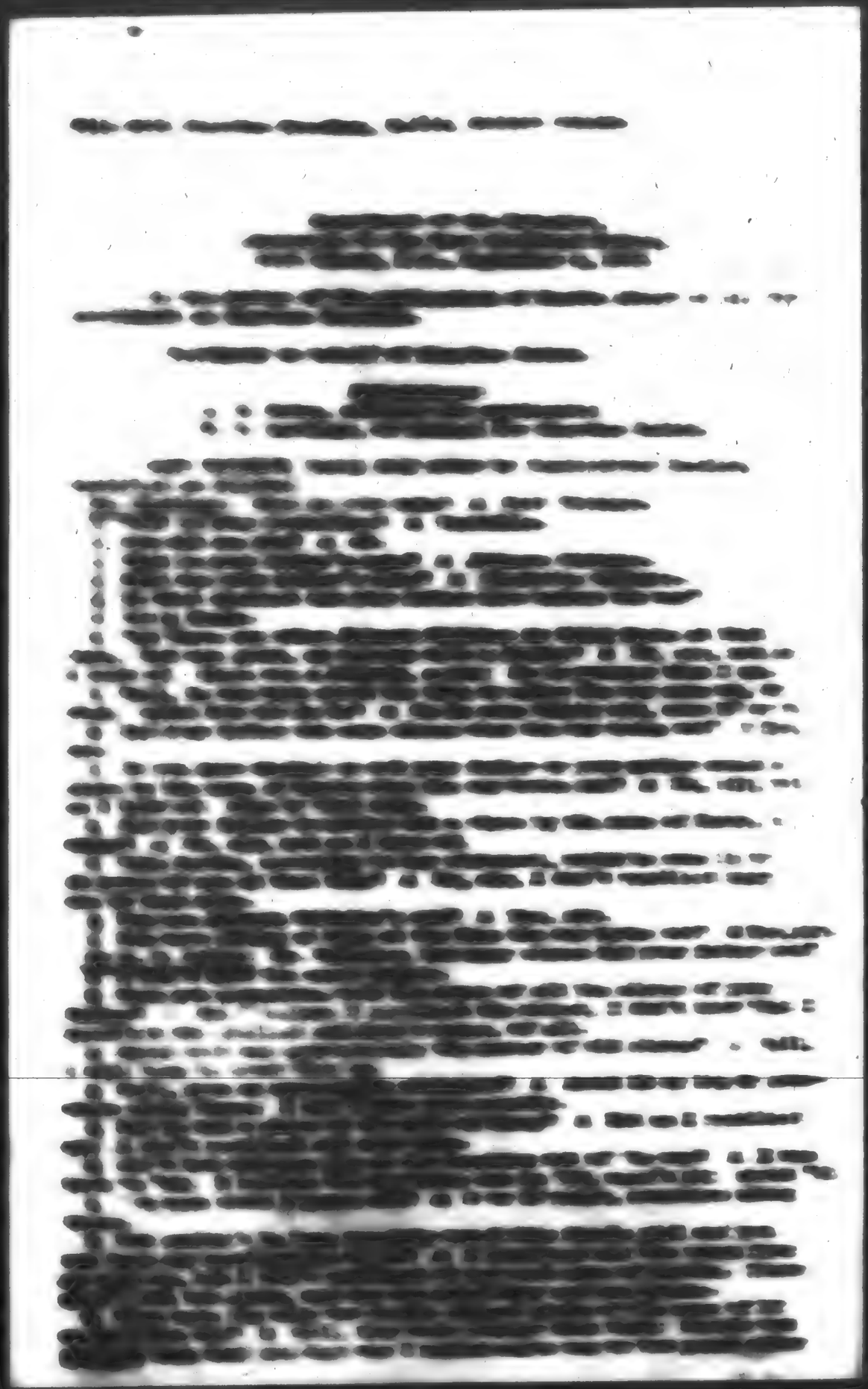
DIRECT EXAMINATION BY MR. HASTINGS:

Q What is your name? A Emma Finley.
Q What is your age, Mrs. Finley? A 51.
Q What is your post office address? A Tahlequah.
Q Are you a Cherokee by blood? A Yes, sir.
Q Recognized citizen of the Cherokee Nation? A Yes, sir.
Q Mrs. Finley, what was your maiden name? A Emma Harlin.
Q You are a sister of Mrs. Hunt who has just testified?
A Yes, sir.
Q What was your father's name? A Ellis Harlin.
Q What was your mother's name? A Penny Harlin.
Q Did you come back with your father after the war to the Cherokee Nation? A Yes, sir.
Q When did your father die? A '67.
Q Where did he die? A Down in Sequoyah district, near Fort Smith.

[redacted]







them so; I don't know exactly, but I just judge from her size.

Q Well now, do I understand you to say this one of fourteen or fifteen adults, or other slaves, did they have any children? A Oh yes, that included men and women together.

Q Included men and women together? A Yes, sir.

Q Did they have any children? A Yes, sir.

Q Do you remember the names of them all? A Well not of all, I remember the names of some of them.

Q About how many children did each family have? A Well, there was one woman by the name of Fronie had one child named Susie, and there was an old lady named Sukie had two or three, and I don't recollect the names of but one boy, his name was Joe, and this girl Matilda I spoke of was the child of - Aunt Sukie: and there was one by the name of Rachel, I don't recollect just how many children she had, but one or two or three, somewhere along there: they were quite small when the war broke out.

Q That is all the children? A No, sir, I don't recollect just how many children there were in the whole family of the darkies, but there was Rachel's children, and Aunt Sukie's children, and Fronie's child, one child, I believe I call to recollect of.

Q Well, where did your father's slaves go during the war? A Well I can't tell you exactly; my understanding is they went north.

Q That they all went north? A Yes, sir, part of the men folks left here before I left the old place, and when I left there I left part of the women folks at home, at the old home place.

Q Know any of the children? A Yes, sir.

Q Have you any recollection what become of them? A No, sir.

Q Did you ever see any of them any more? A No, sir, never saw any women of them any more at all.

Q Did you go away yourself? A Yes, sir, taken away.

Q Where did you go? A Went from there to Cane Hill, Arkansas.

Q When did you return? A After peace was made; went on from Cane Hill south.

Q Have you any acquaintance with this alleged party to this suit, Martha Albert: are you acquainted with her? A No, sir.

Q Don't know her? A Don't know her at all.

Q How long have you lived in the Cherokee Nation now since your return from Cane Hill; was that the place you went to? A Went from the Nation to Cane Hill and from Cane Hill went south in the Choctaw Nation.

Q Then when did you return from the Choctaw Nation to the Cherokee Nation? A Returned in '67.

Q To what point? A Back at the old home place in Going Snake district.

Q You have lived here continuously ever since? A Yes, sir.

Q Were you extensively acquainted with the colored people in and around, or rather in Going Snake district? A Yes, sir.

Mr. Gardner: Now as I understand you, Mr. Whitmire, you stated that you remember all of the slaves that were of your age and older, but those that you don't remember were those that were younger or smaller? A Yes, sir; I remember some that were younger than I was, some that I called a good while ago.

Q You are positive your parents didn't own a slave by the name of Martha? A No, sir; none that I know of, there wasn't any found on the place, and I believe I can call the names of all the women on the place, and I believe I can call the names of all the children.

Q Are you positive your parents didn't own a girl older than your self named Martha? A No, sir, didn't own on the place named Martha.

J. W. ALBERTY, being duly sworn by Commissioner Needles, testified as follows:

Mr. Hastings: What is your name? A J. W. Alberty.

Q Mr. Alberty, what is your age? A Well, I am 67 years old.

Q What is your postoffice? A My postoffice is Westville, Indian Territory.

Q What district do you live in? A I live in Going Snake district.

Q You a Cherokee by blood? A Yes, sir.

Q Mr. Alberty, where did you live in the Cherokee Nation before the war? A In Going Snake district.

Q Near where you now live? A Yes, sir.

Q Did you know Johnson Whitmire? A Yes, sir.

Q Did you know him before the war? A Yes, sir.

Q How far did you live from him? A Well, it was about ten or twelve miles, I reckon we called it.

Q Did you know his family? A Well, yes I knew his family.

Q This witness here before, named Matt Whitmire, was he a son of Johnson Whitmire? A Yes, sir.

Q I will ask you if you were acquainted with a colored man by the name of Charles Boland before the war? A Yes, sir, he was a mixed blood, free.

Q I will ask you if you knew a colored woman by the name of Nancy Whitmire, alleged to have belonged to Johnson Whitmire before the war?

A Yes, sir, I knew her.

Q Now, if you know what became of Nancy Whitmire and Charles Boland I wish you would make a statement to the Commission? A The Whitmire boys sold Nancy to a man named Dillingham, and he moved right across the line from where I lived, five or six miles, and owned them there until he moved off to Texas, Charles Boland and Nancy; I knew them better after Dillingham got them than I did before.

Q Who sold them to Dillingham? A The Whitmire boys, George Whitmore and Johnson Whitmire; they were brothers and they sold them at the time they divided up the property.

Q Now about how long before the war was that they sold them, about what year? A I reckon it must have been in '47 or '8, I haven't got the dates, I wasn't expecting anything of this kind, and I didn't get the dates, but it must have been in '47 or 8.

Q What was Dillingham's citizenship? A He had none.

Q Was he a white man or Cherokee or what? A He was a white man and lived in the state.

Q What state? A Arkansas.

Q Lived across the line in the State of Arkansas? A Across the line, yes, sir, in the State of Arkansas.

Q Do you know what finally became of him out there? A Mr. Dillingham, in about '50 or '51 moved to Texas and carried the family, and Boland went with them, he was free but he followed this family off to Texas.

Q Do you know whether he had Nancy for a wife or not? A Yes, Boland had this Nancy for a wife, and claimed the family, and when Dillingham carried the family off he went with them.

Q How far did this man by the name of Dillingham live from you?

A About five or six miles.

Q Now how far did you live from the Cherokee line up there?

A Well about that time I only lived about half a mile, right at it.

Q On the west side of the Cherokee and Arkansas line? A On the west side of the Cherokee line.

Q And Dillingham lived on the Arkansas side? A On the Arkansas side, just over there what is called Dutch Town or Salem.

Q He laid no claim to Cherokee citizenship? A No, sir, not a bit; he had a son that was adopted, but the old man had none.

Q And I believe you stated that along about '50 Dillingham carried these people to Texas? A He carried them to Texas.

By A. S. McRea: I understand you to say Johnson Whitmire sold Nancy? A Yes, sir.

Q Nancy Sheppard then did belong to Johnson Whitmire? A Yes, sir, she did belong to Johnson Whitmire; there were two brothers of the children, George and Johnson Whitmire, and they owned an interest in them and they both sold their interests.

Q About what year was that? A Well sir, I can't positively say, but it was in or about '47 or '8; I have nothing to guide me by.

Q Do you know Martha, the child of Nancy? A No, sir, they were all small when they went off, I don't know any but a boy they called Ellis; Dillingham brought him back with him just a little while before the war came up.

Q Did Nancy have children when Johnson sold her? A Yes, sir.

Q Did he sell the children with her? A Yes, sir.

Q Nancy's whole family was sold? A The whole family went, yes sir.

By A. S. McRae: Mr. Alberty, where do you live? A I live in the eastern part of the Cherokee Nation here.

Q Ar' you say Johnson Whitmire sold Nancy, the alleged mother of the applicant, Martha Albert, in 1847? A I didn't say the time he sold her, because I don't know that, he sold Nancy, Charles Boland's wife to Dillingham, and the children, but I don't know nothing about Martha at all, I didn't say the mother of her, but if she is the daughter of Nancy, why she - -

Commissioner: Was sold with the balance, was she? A Yes, sir, sold with the balance; the whole family was sold.

A. S. McRae: To whom did you say they were sold? A Dillingham.

Q Where did he live? A He lived in Texas.

Q Do you know of your own knowledge that this woman, Nancy, went to Texas? A Yes.

Q How do you know that? A I saw them start.

Q Did you see them arrive? A I didn't see them arrive in Texas, but I saw them start on the road.

Q Do you know whether or not, of your own knowledge that they arrived there? A No, sir, I can't say that, but I guess from all the circumstances they did.

Q What fixes it on your mind so very definitely that they were sold in '47? A Well, just as I said before, I said I wasn't positive about that, but it was in or about that time.

Q For how much was she sold? A Well I can't exactly say now what they did bring, because they got some horses and some cattle and some money.

Q How many horses? A I can't answer that question.

Q How many cattle? A I don't know.

Q How much money? A Well, I don't know that that would amount to anything, because it was satisfactory to them.

Q You say they were sold and we want to know what was the status of the sale? A Well I don't know the amount that they got for them, I can't say.

Q Did you see any money exchanged? A No, sir, but after that they changed hands, the darkies went.

Q It is true, they could possibly have changed hands without any sale? A Well hardly them days.

Q Then in so many words, you don't know whether that was a bona fide sale or not or your own knowledge? A Well, of my own knowledge, I would have to say it was a bona fide sale, or else he wouldn't have taken them out of the Cherokee Nation.

(Foregoing answer read by stenographer at request of attorney for applicant.)

Witness: Yes, sir.

McRae: He said you would suppose it was a bona fide sale.

Commissioner: Was that your answer?

Witness: A Yes, sir.

Cross-examination: How long after the sale was it before Mr. Dillingham taken them to Texas? A It must have been 2 or 3 years, they lived right there close neighbors to us two or three years after they

bought them.
Q With whom? A with Dillingham, in the State of Arkansas.
Q Then when the sale was made Dillingham at that xxx time was living in Arkansas? A Yes, sir.
Q Is your first statement that he was living in Texas correct, at the time of the sale? A No, sir, I didn't make that, he was living in Arkansas and moved to Texas, I said, in about '50 or '51 and taken them with him in about '50 or '51.

McRea: I would like to examine the face of the record.

Commissioner: The record shows for himself. If the witness contradicts himself the record shows it. I think the witness did state when you asked him where Dillingham lived, that he lived in Texas, but you didn't specify the exact time when he lived, but the witness stated plainly now at the time Dillingham bought the slaves he lived in Arkansas and moved to Texas a few years after.

McRea: Did you ever see Nancy Whitmire any more? A Well, I never saw her after he moved off to Texas with her.
Q Are you acquainted with Martha Albert, the applicant in this behalf? A No, sir.
Commissioner: You don't know Martha at all then? A No, sir; well there were several children, but I don't recollect their names; there were several children then only they were small.
Q You have never seen the averred mother of Martha, Nancy, after Dillingahm took her to Texas? A No, sir.
McRea: And you don't know whether or not this woman, Martha, was one of the number of these children that accompanied the mother, Nancy, to Texas or not? A No, sir, I don't.
Commissioner: Did Nancy have children to your recollection?
A Yes, sir.
Q You don't recollect how many? A Well, no I don't, there was three or four, four children, there might have been more and might have been less.
Q Know whether they were boys or girls? A Ther was one boy.
Mr. Hastings: I believe you states that these children that she had with her? A Yes, they all went with her.
McRea: About what was the age of these children? A Well, they were small, they were not very large.
Q 3, 4, 5, 6 xxxix or 10 years, something like that? A Well, he must have been 6 or 7 or 8 years old, maybe 10, I can't state that.
Q Was that a girl or a boy? A I think the oldest one was a girl.

Commissioner: This testimony will be made part of the testimony in the cases, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152, D-146, D-182. Attorney McRea for applicant objects to testimony being filed in the case of Robert Barnes et al., and the objection is overruled.

***********

Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the proceedings and testimony in the above cases, and the foregoing is a true and correct transcript from his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this 5th of September, 1901.

Commissioner.

File with Cherokee Freedman D- 114, Malinda McLain.

Department of the Interior,
Commission to the Five Civilized Tribes,
Fort Gibson, I.T., September 11, 1901.

In the matter of the application of Martha Albert et al. for enrollment as Cherokee Freedmen.

Supplementary evidence introduced on behalf of applicants.

Appearances:
A. S. McRea, attorney for applicants;
W. W. Hastings, of counsel for Cherokee Nation.

The Commission: Now Mr. McRea, state briefly what you desire to prove by this witness.

A. S. McRea: Applicant desires to offer testimony in behalf of herself et al., by Sam Barnes, showing that mother of applicants did return to the Cherokee Nation within the time of the treaty stipulations, and that so far as the sale of she and her mother to one Dillingham, it is untrue.

The Commission: When you speak of the applicant, I suppose you mean Martha Albert?

McRea: Yes, Martha Albert and others.

Mr. Hastings: The Cherokee Nation objects to the applicant being allowed to introduce any testimony in this case on the question of the return of any of the applicants, for the reason that applicants introduced their testimony on both ownership and return, and the Cherokee Nation introduced testimony on both, and the only testimony which can legally be introduced by the applicant now as testimony in rebuttal of new matter brought out by the Cherokee Nation in its testimony.

The Commission: The objection of the Cherokee Nation will be noted.

S. B. BARNES, appearing before the Commission and being duly sworn and examined, testified as follows:

A. S. McRea: Give us your name, Mr. Barnes? A S. B. Barnes.

Q Your age? A About 57, going on 58.

Q Postoffice address? A Benge.

Q Mr. Barnes, are you acquainted with the applicant, Martha Albert? A Yes, sir.

Q How long have you known her? A I have known her going on 37 years.

Q Do you know whether or not she was a slave in the Cherokee Nation before the war of the rebellion?

Mr. Hastings- I object to that, both because the very testimony itself shows that he didn't know that; said he hadn't known her but 37 years.

Commission: Ask him the question.

Q Where was she when you first knew her? A She was down here right close to Cherokee.

Q Where is that? A That is down right on the line, at the Cherokee Junction.

Q Was that in the Cherokee Nation? A Yes, sir.

Q Did you know her mother? A Yes, sir.

Q What was her mother's name? A Nancy.

Q How long had you known the mother? A I got acquainted with her in '55.

Q Where was she when you first met her? A I met her [illegible]

Q In the Cherokee Nation? A Yes, sir.

Q Do you know whether or not they went out of the [illegible]

or not?

Mr. Hastings: He says he never met them till '64 and '65; you ought to know that he can't testify to that.

McRea: He might have heard; we have been taking hearsay testimony.

Commission: Answer the question.

A I don't know.

Q Did you ever hear of the mother of your wife, Sarah Barnes, having been sold to a man by the name of Dillingham?

Mr. Hastings: Objected to by the Cherokee Nation on the ground of hearsay.

Commission: Ask him if he knows.

Q Do you know? A No, sir, I don't know it.

Q Did your wife ever tell you they were sold.

McRea: What his wife told him is admissable.

Mr. Hastings: Objected to by the Cherokee Nation on the ground that it is clearly inadmissable, it being hearsay testimony, and a declaration in interest of the party.

Commission: Let him answer the question.

Q Did your wife ever tell you whether or not she and her mother were sold to Dillinghamof Arkansas? A No sir, she never did.

Q I will ask you if you and your wife ever had any conversation pertaining to her citizenship?

Mr. Hastings: Objected to by the Cherokee Nation for the reason that it is clearly hearsay and inadmissable.

McRea: That is not hearsay testimony.

Commission: I will let him answer the question.

Mr. Davenport, Cherokee attorney: I will object on the ground that he can't testify for or against his wife, under the rules of law. I think I recollect that the Commission has served notice that it would follow the ordinary rules of evidence.

McRea: The Commission served notice that it would not confine itself to the different rulings and technicalities of law in trying testimony in this matter.

Commission: Go on with the examination, Mr. McRea.

(Question read to witness by stenographer.)

A Why of course, she met the John Chambers Court at Tahlequah.

Q Where did you marry your wife? A Marry her; we were engaged here in the Cherokee Nation but we were married at Fort Smith.

Q She was living in the Cherokee Nation when you courted her?

A Yes, sir.

Q Now when did you marry her? A I married her in November, '66.

Mr. Hastings: Where did you live before the war? A I lived in Texas.

Q What county? A Fannin County.

Q What was your owner's name? A Higginbothem.

Q What was his first name? A Thomas Higginbothem.

Q What was the nearest town to you? A Bonham

Q Did you know Jerry Starr down there? A No, sir.

Q Did you see your wife down there? A No, sir.

Q You didn't? A No, sir.

Q Did you see Nancy Whitmire, or Nancy Boland, down there? A No, sir

Q See Martha Albert? A No, sir.

Q How old are you? A I have turned 58 years old.

Q What is your father's name? A My father, Bob Barnes.

Q When did you leave Texas? A I left Texas directly after the war ended.

Q Well, did you make a crop down there the year the war ended?

A I wasn't big enough, I didn't make no crop.

Q Who were you living with? A I was living with my old mistress.

Q She wasn't a Cherokee? A No, sir.

Q Well, did you make a crop with your old mistress, or for her, that year? A Yes, sir.

McRea: I object to all that; it is irrelevant to the question at issue.

Commission: Answer the question.

Q You made a crop for her you said? A Yes, sir.
Q The year the war ended? A Yes, sir.
Q Now then you stayed there then that year? A I left there just as the war was up.
Q I thought you said you made a crop there? A I did.
Q Then you laid that crop by, did you? A The war came to an end in the spring of '65 if I understand anything.
Q Well, how did you come to leave Texas and who did you go with?
A I come by myself.
Q Just alone? A Yes, sir.
Q Come afoot? A No, sir.
Q How did you come? A I had a horse.
Q Well, where did you come to? A I come to Fort Smith.
Q You had never been to Fort Smith before? A No, sir.
Q You had never heard of Fort Smith in your life before? A Oh yes sir, I hadn't been dead I don't reckon, I was a man.
Q How far below Fort Smith did you live when you lived in Texas?
A From Fort Smith?
Q Yes? A You mean just out on the river?
Q In Texas? A It is about 200 miles.

McRea: I object to that, the question is misleading in its nature, and I object to it.

Commission: He has already answered the question.

Q You came direct to Fort Smith? A Yes, sir.
Q Who did you work for there? A I worked for Bill Belt, five miles out south of town.
Q How long did you work for him? A I worked there a couple of weeks, or about a week, or couple of weeks.
Q Then where did you go? A I crossed over here in the Cherokee Nation.
Q What induced you to leave down there and leave your folks and go to Fort Smith at that time? A Just because I had a notion to go to Fort Smith.
Q Then what induced you to leave Fort Smith after being there only two weeks and go over on the Nation side? A Just because I wanted to go.
Q You didn't know anybody ever there, did you? A No sir.
Q You had never seen a soul? A Of course I had seen people.
Q You had never seen one of them over there at Fort Smith?
A Not from across the Cherokee Nation side, across the river; why I saw people down in Fort South out on the Cherokee Nation.
Q Who did you meet that lived on this side of the river, at Fort Smith? A I met Tom Stoneroad and Mrs. Franklin, I don't know how many people I didn't meet.
Q Whose place did you go to on this side of the river first? A I was at Mr. Stoneroad's place the first place I was at, right on the line.
Q How long did you stay there? A I didn't stay there but an hour or two.
Q Then where did you go? A I went back to town.
Q How long did you work there in town? A I don't know exactly how long.
Q A year? A I don't know exactly how long I worked in town.
Q 25 years? A I might not have worked there more than two hours, I don't know.
Q Don't know whether it was an hour or 25 years? A Yes, sir, I do know how long.

McRea: He has answered that he don't know.

Commission: Let him answer the question.

Q About how long? A I worked there two or three different times.

sometimes I would be in town a week and sometimes not but a day or two and sometimes two or three days.

Q Where were you making headquarters, or home? A I made headquarters sometimes out at Bill Belt's and after that I worked for Tom Stoneroad some right on the line of the Cherokee Nation.

Q How long did you say a while ago you had been married? A I said I married in November, '66.

Q How many years did you say that was? A I didn't say nothing about the years.

Q Who married you? A I was married by the clerk.

Q What was his name? A I don't know his name.

Q Clerk of what court? A Clerk of the Court there, at Fort Smith.

Q On the Arkansas side? A Yes, sir.

Q You got a license over there, and he married you? A I think I got license.

Q Now what is your full name? A Sam Barnes is my full name.

Q What is your wife's name? A Her name was Jennie.

Q Jennie what? A Jennie Boland.

Q She is a sister to Martha Albert? A Yes, sir.

Q Younger than Martha? A Yes, sir.

Q Have you ever been married before? A Yes, sir, had been married twice before.

Q Where had you been married? A In Texas.

Q What was your first wife's name? A Anna.

Q She dead? A Yes, sir.

Q What was your second wife's name? A Name was Mandy.

Q What year was it they had that investigation, that Chambers Court you speak of? A That was in '78.

Q Was your wife admitted or rejected? A Must have been rejected by us having to be here.

Q Did you make a statement up there before that Court? A Yes sir.

Q You never saw your wife before the war? A No sir.

McRea: Did you see the mother, Nancy Boland, of your wife and Martha Albert, here in 1866? A I seen her here, yes sir.

Q In the Cherokee Nation? A Yes, sir.

Q Is she living now? A Who is that?

Q The mother, Nancy Boland? A Oh no, she died in '66.

Q Where was she buried? A Buried on this side the river there somewhere.

Q In the Cherokee Nation? A Yes, sir.

Q Did you see the father, Charles Boland I believe was his name? A Yes, sir.

Q In '66 here in the Cherokee Nation? A Yes, sir.

Q Is he alive now? A No, sir, he is dead.

Q When did he die? A He died in '72.

Q Where was he buried? A He is buried on Lees Creek.

Q In the Cherokee Nation? A Yes, sir.

Mr. Hastings: On whose place is Nancy Boland, the mother of Martha Albert and also of your wife, buried; who owns that place now?

A She was buried at what was called the Jack Campbell graveyard, my wife.

Q This Nancy Boland, where is she buried? A She is buried I think at Mrs. Franklin's graveyard.

Q Do you know it? A That is where I was told she was buried.

Q What time did she die? A She died in '66.

Q Spring, summer or fall; before you married or after? A Just before I married.

Q Did you ever see her? A Seen her many a time.

Q In Texas? A No sir, never seen her in Texas.

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Mr. Hastings: Notice is hereby served on the attorney

in the case of Martha Albert and the referred cases, that the Cherokee Nation desires to introduce testimony in them on Friday, the 13th inst., between the hours of eight in the morning and five in the afternoon.

Mehan: The applicant will on said date introduce additional testimony in the case at bar.

Commission: This testimony will be filed in the following Cherokee Freedmen cases: D-42, D-146, D-182, D-99, D-100, D-101, D-102, D-103, D-104, D-105, D-114, D-150, D-151, D-152.

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Bruce C. Jones, being duly sworn, says that as stenographer to the Commission to the Five Civilized Tribes, he correctly recorded the proceedings and testimony in the above case, and the foregoing is a true and complete transcript of his stenographic notes thereof.

Bruce C. Jones

Sworn to and subscribed before me this the 13th of September, 1901.

Commissioner.

DEPARTMENT OF THE INTERIOR
COMMISSION TO THE FIVE CIVILIZED TRIBES
FILED
SEP 23 1901
CHAIRMAN

File with case is Malinda McLain, et al., C.F.-D.#114.

Supl. C.F.-D.#42.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES,
FORT GIBSON, I.T., SEPTEMBER 17, 1901.

SUPPLEMENTAL TESTIMONY in the matter of the enrollment of MARTHA ALBERT, et al., as Cherokee Freedmen, introduced on the part of the Cherokee Nation.

APPEARANCES:
W. W. Hastings, Attorney for Cherokee Nation;
A. S. McRea, Attorney for applicants.

J. W. HUGHES, being duly sworn, testified as follows on part of the Cherokee Nation. BY MR. HASTINGS:

Q What is your name? A J. W. Hughes.
Q Post office? A Ramey.
Q What is your age? A 53.
Q Are you a citizen of the Cherokee Nation? A Well my wife and children are, I wasn't married according to the Cherokee laws.
Q When were you married? A I were marri ed in '69, July, '69.
Q Where did you live that year after you were married? A I lived in the Indian Territory on Joe Purdue's place on Webber creek, in a mile and a half or two mile beyond Big Lees creek.
Q That is in Sequoyah district? A Yes, sir.
Q And about how far from Fort Smith, Arkansas? A Well, accordi ng to the line straight through, about eight miles.
Q Do you know Colly Albert, a colored man? A Yes, sir, I was acquainted with him there.
Q Were you acquainted with his wife, Martha Albert? A Yes, sir.
Q Did you know Martha Albert's father? A Yes, sir, that is what they claimed to be her father.
Q Well, what was his name? A His name was Boldan, I could not tell you what his given name was. He claimed his name was Boldan.
Q Well, he was recognized there as the father of Martha Albert?
A Yes, sir.
Q Did you know Martha Albert's sister, Jennie Barnes?
A Yes, sir, I was well acquaint ed with them, lived in a half mile of them about four years.
Q Did these children do any work for you in these early days, '69 or '70? A Well, in the year of '70 when I was living there on the place they were living a quarter or half a mile below me, I rented a place from Joe Purdue and they were living joining that place, and I hired them to chop cotton for me and also to pcik cotton and work; and do some other work making rails and fixing fence, and I worked there with them two or three years; they worked for me.
Q Did you ever have any talk, or hear any members of this family make any statement as to where they come from and their whereabouts prior to that time? A I have heard Boldan and his daughter, Colly albert's wife, I never have heard Colly speak anything concerning it as I remember at this time.
Q Well, from Boldan or Colly's wife, Albert? A I heard Boldan-

Mr. McRea: I object to anything Boldan said.

Commission: Note the objection and answer the question.

A I heard him saying he was in Texas ; he claimed himself to be part Cherokee, if I mistake not, and that he was not a slave; he claimed that he was not but his wife and children-seems to me he had two children--and they were sold out of here and was carried to Texas by somebody, and I don't remember just who he said carried them away, but the best I remember about it that he had two children, Martha and Jennie, two girls, if I mistake not, as near as I can possibly think of it not at the present, and that he went along for his childrens' sake was what I seemed to understand from his talk,

and that he still lived there until the war closed and moved back, but I never was acquainted with him until '69 or '70.
Q Well, did he say when they went to Texas? A No, si r, I don't remember.
Q Well, as to the war, or before the war? A It must have been before the war.
Q Did he say that his wife and children were sold? A I think he did, I won't be positive about that, but I think he did. I remember one thing he told me, he was mighty jokey and working for me there picking cotton and chopping cotton and talking about his ups and downs down there in Texas, and what makes me think that you know, I asked him you come from down here in Texas and he spoke about his wife and children being sold out, and if I mistake not, he told me before the war they were sold out, I won't be positibe about that, but it seems to me that he did, and then at the close of the war, or after the war a while, he come back, but I don't remember anything about the time, date; I never was acquaint ed with him until '69, we made a crop there that year and now come me to get acquainted with him is what I say, I had rented that place of Joe Purdue's on the creek and we made a crop there that year and I made a crop there in '70.
Q Well, did you ever hear Martha Albert say anything about her whereabouts, where she came from? Well she claimed, if I understand it, she claimed that she come from Texas.
Q Do you remember whether you ever heard Jennie Banres saw anything about where she come from? A I never heard Jennie Barnes say anything about it, she was not about our house, but these others they worked for me a great deal.
Q Do you remember whether Boldan made any statement as to who his wife formerly belonged to up here in this country before the war?
A I just don't remember.
Mr. McRea: I object to that.
Commission. Your objection will be noted.
A It seems t o me that she was a whitmire, I won't be positive about that now
MR. McREA: Mr. Hughes, you say your first acquaintance with Martha Albert and her family was in '69 or '70? A First acquaintance was '69, and in the fall of '69.
Q You knew nothing of them before that A No, sir, I did not know them before '69, I could not tell you just what time of the year, but it must to have been, the best knowledge I have about it now, was in '69, and what makes me think so I was married in '69, in July.
Q When was the last time you saw Martha Albert? A I suppose it must have been two or three years ago the last time I remember seeing her, two or three years ago.
Q Did you ever give testimony in this matter before?
A I never have, never was called on.
Commission: This testimony will be made a part of the record in the following cases: D.#42, D.#146, D.#182, D.#99, D.#100, D.#101, D.#102, D.#103, D.#104, D.#106, D.#114, D.#150, D.#151, D.#152.

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J. O. Bosson, being first duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes he correctly recorded the testimony and proceedings in this case, and that the foregoing is a true and complete transcript of his stenographic notes thereof.
Subscribed and sworn to before me this September 15th, 1901.

J. O. Bosson

Commissioner.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.

In the matter of the application of Martha Albert, et al., for enrollment as Cherokee Freedmen, consolidating the applications of

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| Martha Albert, et al., | Cherokee Freedmen | D- 42 |
| Robert Barnes, | Cherokee Freedmen | D- 99 |
| Lula Knalls, et al., | Cherokee Freedmen | D-100 |
| Nancy Borkum, et al., | Cherokee Freedmen | D-101 |
| Henry Albert, et al., | Cherokee Freedmen | D-102 |
| John Barnes, et al., | Cherokee Freedmen | D-103 |
| Jerry Albert, | Cherokee Freedmen | D-104 |
| Lillie White, et al., | Cherokee Freedmen | D-105 |
| Malinda McLain, et al., | Cherokee Freedmen | D-114 |
| Frank Gardner, | Cherokee Freedmen | D-146 |
| Joshua Barnes, | Cherokee Freedmen | D-150 |
| Sarah Brown, et al., | Cherokee Freedmen | D-151 |
| Minnie Barnes, | Cherokee Freedmen | D-152 |
| George Bell, et al., | Cherokee Freedmen | D-102 |

D E C I S I O N.

The record herein shows that applications for enrollment as Cherokee Freedmen were made to this Commission, by Martha Albert, for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls, for herself and minor children, Sarah French and Fred E. Knalls; by Nancy Borkum, for herself and minor children, Annie and Walter Borkum; by Henry Albert, for himself and minor children, Henry and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Lewey Albert; by John Barnes for himself and minor child, Quassie A. Barnes; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Barnes; by Jerry Albert, for himself; by Lillie White, for herself and minor children, Mattie and Nancy White; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of Amos White; by Charles McLain, for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain; by Frank Gardner, for himself; by Joshua Barnes, for himself; by Sarah Brown, for herself and minor child, Maggie Williams; by Minnie Barnes, for herself; by George C. Bell, for his wife, Maggie Bell; that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George L. Bell.

The evidence shows that the applicant, Martha Albert, and her sister, Jennie Barnes, now deceased, were not slaves of Cherokee citizens or free colored persons residing in the Cherokee Nation at the commencement of the war of the rebellion. All the other applicants herein have been born since the comm ncement of the rebellion and are descendants of and claim right to enrollment through either the said Martha Albert or Jennie Barnes.

None of the names of said applicants herein are found on the 1880 authenticated roll of the Cherokee Nation.

It is, therefore, the opinion of this Commission that the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Zila McLain, Christiana McLain, Charles McLain , Turner McLain, Jeanette McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and Geor e L. Bell, as Cherokee Freedmen, should be denied under the provisions of Section t enty-one of the Act of Congress approved June 28, 1898 (30 Stats., 495), and it is so ordered.

COMMISSION TO THE FIVE CIVILIZED TRIBES.

(SIGNED) Tams Bixby.

(SIGNED)

(SIGNED) C. R. Breckinridge.

(SIGNED) W. E. Stanley.

Muskogee, Indian Territory,

this JAN 11 1904

Cherokee Freedmen 8-418 to 431
both inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, April 27, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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It appears from the records of the Commission that on the 11 day of January, 1904, the Commission rendered a decision in the above case, denying all the applicants therein, which decision of the Commission was approved by the Secretary of the Interior on June 21, 1904. It further appears that on March 25, 1905, this application was remanded by the Secretary of the Interior for further hearing.

Now on this, the 27th. day of April, 1905, the applicants appeared in person and by their attorneys, Neal & London. The Cherokee Nation represented by Bell, Hastings & Davenport.

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Witness for applicants.

A. J. Alberty, being duly sworn, testified as follows:

MR. NEAL:

Q What is your name? A A. J. Alberty.
Q Where do you live? A Near Stilwell.
Q How long have you lived in the Cherokee Nation? A I was born there.
Q How old are you? A About 60 years old.
Q You are a Cherokee by blood? A Yes sir.
Q Were you acquainted with Johnson Whitmire before the war? A Yes sir.
Q How far did you live from him before the war? A I guess a couple of miles.
Q Were you acquainted with his slaves? A Yes sir.
Q Do you remember anything about his selling some slaves into Arkansas some time before the war? A Yes sir.
Q To whom did he sell these slaves? A A man by the name of Dillingham.
Q Do you know whether there was a slave named Nancy sold to that man? A I think so.
Q Do you know this applicant? A Yes sir.
Q Did you know her before the war? A Yes sir.
Q To whom did she belong previous to the Rebellion? A Johnson Whitmire.
Q Was he a Cherokee Indian. A Yes sir.
Q Was she sold by Whitmire previous to the Rebellion? A Yes sir, I think she was.
Q Do you mean this applicant? A No sir.

Q Did he have two slaves by the name of Martha? A Yes sir, one was called big Martha and the other little Martha.
Q Which one was sold? A Big Martha was sold.
Q Was this one little Martha? A Yes sir.
Q Was she sold? A No sir, the other one was sold to Dillingham.
Q Do you know who took her out of the Cherokee Nation when the war broke out? A This one?
Q Yes? A I think it was Cornelius Wright.
Q Was he the boss who took the Whitmire niggers out? A Yes sir.
Q Did you, at any time during the war or at the close of the war, see this applicant anywhere, and if so, where? A After the close of the war I was down there in the Choctaw Nation on Red River, and I learned from the Choctaws that there were a lot of refugees there. I looked out for them, and found some of the Whitmire slaves.
Q Was that in the Choctaw Nation? A Yes sir.
Q When was it? A I think, to the best of my knowledge, that it was in the fall of '65.
Q Do you know of your own knowledge when she returned to the Cherokee Nation? A No sir, I don't.
Q What was this woman's mother's name? A She went by the name of Nancy.
Q What was the name of the other Martha Whitmire's mother? A I think her name was Dicy.
Q Her name was Dicy Whitmire before she was sold by Whitmire? A Yes sir.
Q Was her name Dicy Whitmire or Dicy Shepherd? A They always went by the name of their master.

MR. HASTINGS:

Q When is your birthday? A I think it was about '43, but I ain't right sure about it.
Q You have never had a birthday since? A No sir.
Q You didn't have one last year? A Yes, my birthday comes around I guess.
Q When was it? A In August of '43, I think it was.
Q But you are about 60 years old? A Yes sir.
Q Do you remember about the year that Dicy, the mother of Martha, was sold to Dillingham? A It was two or three years before the war.
Q Who else was sold at the time Dicy was sold to Dillingham? A There were two or three children.
Q What were their names? A One of them was called Martha.
Q Where did you live at the time? A Right up above Whitmire's up in Going Snake District.
Q Watt Whitmire lived there with his father didn't he? A If he did he was very young.
Q You say it was only three or four years before the war? A Well, I don't know his age.
Q Who did you get a letter from about a week ago to hunt up testimony in this case? A I didn't get one from anybody.
Q Did you ever get one from anybody with reference to hunting up testimony in this case? A Yes I saw Mr. Rogers.
Q What Mr. Rogers? A That man over there behind Mr. Neal.
Q What interest did he have in the case? A I couldn't tell you. He just asked me to go over there and see if I could find anybody that knew these people.
Q Who did you go to to ask? A Mrs. Susie Walkingstick.
Q What interest did you have in going around over the neighborhood asking people if they knew about the people in this case? A They had asked me to do it as a favor.
Q Did you have any interest in the case? A No sir.

Q How many slaves did Johnson Whitmire have when the war came up? A I don't know --- several.
Q Let's have the names of some of them? A One was called Dicy, one Nancy, Emma, Rachel. I believe that is all I knew the names of. There were several more, but I don't remember their names.
Q How far did Jack Alberty live from Johnson Whitmire? A About 8 miles.
Q How far did Jeff Tik-nee-sky live from Johnson Whitmire? A About three or four miles.
Q Do you swear that Johnson Whitmire owned this slave and her mother when the war came up? A Of course he owned them.
Q You will swear that? A Of course I will.
Q And he owned her mother at that time? A Yes sir.
Q Was she very old? A Not very.
Q Did she have any more children? A I don't know. I wasn't that well acquainted with her. I was over there a good deal, but I didn't know about her business.
Q Don't you know whether she had any other children besides this Martha. A I don't know.
Q Didn't she have one older than Martha? A I don't know.
Q And didn't she have two younger than Martha? A I don't know.
Q But you knew Nancy and Martha? A Yes sir, but I met them out on Red River after peace was made, and that is how I knowed so much about them.
Q You didn't know that she had a brother or any sisters? A She had some brothers I guess.
Q What were their names? A One went by the name of Nelson, one was Aaron, and one was Lewis.
Q Who did they belong to? A I think they were kinder in partnership between Johnson Whitmire and George Whitmire.
Q Did you knew the father of Johnson and George Whitmire? A No sir.
Q He died long before the war, didn't he? A I guess so. I never knew him at all.
Q When did Dillingham get Dicy? A I don't know about that.
Q Who took this applicant and her mother south? A Cornelius Wright.
Q Is that Cale Wright's father? A Yes sir.
Q Then Cale Wright would know about that? A I guess he would.
Q How do you know they went south with Cornelius Wright? A They told me so.
Q How old was this applicant when the war came up? A I could not tell you. I was about 15 years old, and she wasn't as large as me.
Q Was she five years old? A I don't know.
Q Was she three? A I don't know.
Q Was she two? A I have no idea about her age.
Q Do you mean to tell this Commission under oath that you knew this particular girl and yet can't tell whether she was 15 or two years of age? A She was over two.
Q What is your best judgement, if you are going to tell the truth? A I guess she was 13 or 14 years old.
Q You say she went south with Cornelius Wright? A Yes sir.
Q Did Cale go with his father? A I don't know whether he did or not
Q Weren't you in the neighborhood? A No sir, I was a soldier.
Q Who was the reputed father of this applicant? A I never knew him
Q Did you ever know of a free nigger by the name of Charley Rowland? A No sir.
Q He didn't live around there? A He might have, but I didn't know him.
Q He didn't go over with Dillingham? A I don't know.
Q You could have known it if he had? A I might not have seen them when they left, but just heard of it.
Q You knew that Dicy went off with Dillingham? A Yes sir.
Q And she had a child by the name of Martha? A Yes sir.
Q And you swear that this Nancy and her child Martha were living there with Johnson Whitmire in Going Snake District when the war

came up? A Yes sir.
Q And yet you do not know how old she was? A I guess she was 13 or 14 years old.
Q How long was it immediately before the war that you saw this child at Johnson Whitmire's? A I was around there several times, and I don't just know when was the last time.
Q When was the last time you were at Johnson Whitmire's before the war? A I couldn't tell you that.
Q You must tell us what is your best judgement. You are under oath now? A In those days I didn't keep any account of my whereabouts. I was a young man, and didn't keep no account.
Q Were you in the country when the war came up? A Yes sir.
Q How long before the war came up was it that you were at Johnson Whitmire's? A Just a short time.
Q How long before the war was it that you saw Nancy at Johnson Whitmire's? A I couldn't tell you.
Q Was it ten years? A It might have been.
Q It might have been 15 years? A It might have been.
Q You are not going to be positive on that point? A No sir.
Q It might have been as much as four or five years before the war that you last saw Nancy and this child at Johnson Whitmire's? A It might have been a year or six months.
Q When you were at Jeff Tik-nee-sky's you didn't know anything about these people? A Yes I did.
Q Did you tell him that you knew them -- that you knew this applicantis mother? A Yes sir.
Q Did you tell Jeff what you have told on this stand? A I told him that I knew of one being named Nancy, and I told him the other one, I told him of the one that Dillingham took out-- that that one was called Dicy and her daughter was called Martha.

MR. NEAL:

Q Did you go into the army when the war first broke out? A Yes sir
Q Were you around there until you went off to soldiering? A Yes sir
Q Then you were in that neighborhood until the war broke out? A Yes sir.
Q In your cross examination you told Mr. Hastings that it might have been 10 or 15 years or six months that you lived within two miles of Johnson Whitmire and didn't go down there. Do you mean that you lived there that long and didn't go about his place? A Yes sir.
Q Then you don't know whether you stayed there five years before the war or not? A No, I couldn't tell you how long it was. I was over there now and then.
Q Every four or five years or what? A Maybe every two or three weeks.
Q Were you ever there every two or three weeks before the war broke out? A Yes sir, maybe it would be a month.
Q Do you mean to say that before the war broke out you were over there every three or four weeks or every four or five years? A It was a short time.
Q Were you ever there every week or two or every year or two? A Every week or two.
Q When you said you didn't know how long it was, you meant that you didn't know how many days it was before you went to the army? A Yes sir.
Q Did you see Nancy within a month or six weeks before you went away? A Yes sir, I think so. It has been a long time ago and a man can't remember all of these things. Lots of things have slipped my memory.

MR. HASTINGS:

Q Wasn't Watt Whitmire, being a son of Johnson Whitmire, in a little better position to know what slaves his father had than you were? A I guesshe would. He knew them better than I would for he was with them every day.

COMMISSION:

Q When were you last at Johnson Whitmire's before the war broke out? A I couldn't tell you exactly.
Q What is your best judgement? A It might have been two or three weeks or a month.
Q Was it within a short time before the war broke out? A Yes sir.
Q Do you state now as a positive fact that when you were there the last time, that you saw this applicant there? A Yes sir.
Q The last time you were at Johnson Whitmire's before the war she was there. Do you state that as a fact, now? A Yes sir, she was there, but she was never taken out of there.
Q Well, she was there or else she was not? A Yes sir, she was there, but she was never was sold out.
Q Were any of the other slaves there? A Yes sir.
Q How often have you seen this witness since the war? A Just one time -- then I saw her yesterday or the day before. I saw her out on Red River before '65.
Q Since '65 up to a couple of days ago you haven't seen her at all? A No sir.

(Witness identifies his signature attached to an affidavit which is shown him.)

Q Are you willing to swear now, Mr. Alberty, that this woman, whom you haven't seen for 40 years is the same woman that you saw at Johnson Whitmire's just before the war? A Yes sir, I saw her out on Red River in '65, and she is the same one.
Q And you haven't seen her since until a few days ago? A No sir, I haven't.
Q In January of this year was your attention drawn to the fact about some Martha Albert --- about four months ago? A Not that I knew of.
Q Do you remember this paper that I showed you a while ago? A Yes sir.
Q Did you read that paper before you signed it? A Yes sir.
Q Four months ago you swore before Mr. Rogers, a Notary Public, that you had known this woman all her life time, and now you state that from the time you saw her down on Red River, in '65, until a few days ago you didn't see her at all? A I couldn't see her all the time.
Q It is a fact that you had not seen her since '65 until a few days ago? A Yes sir, I hadn't.
Q Prior to that time you had signed this affidavit, hadn't you? A Yes sir.

(Reference is made to an affidavit signed by the witness in the case of this applicant, signed on January 10, 1906, before H. L. Rogers, Notary Public, and which is a part of the petition for a rehearing, addressed to the Department of the Interior and to the Honorable Commissioner of Indian Affairs.)

MR. HALL:

I have one other witness, Martha Williams, who is the Martha that was sold by Johnson Whitmire to Billingham. She lives at Marlton, and

we sent a man down after her, and this morning I get a message stating that she is sick, and that a doctor's certificate has been procured. As soon as she is able to travel I would like to bring her up here and take her testimony. The testimony of this witness is important, because she is the Martha that belonged to Johnson Whitmire and who was sold out to Dillingham.

WITNESS EXCUSED.

Martha Albert recalled for additional cross examination.

MR. HASTINGS:

Q What is your name? A Martha Albert now.
Q What was your father's name? A Charley Bowland.
Q What was your mother's name? A Nancy, but she was called Nannie when she was young.
Q How old are you? A I think I am about 60 years old, but I don't know exactly. I am not educated, and can't tell my age exactly.
Q Were you married before the war? A No sir, I was just a little girl.
Q Were you married during the war? A About the last year of the war.
Q Where? A On Red River.
Q Who did you go south to Red River with? A With Cornelius Wright's daughters.
Q Who took them? A Cornelius Wright took them, and there was another lot went along. We all went together, but I was so small that I didn't pay much attention.
Q Did you know any of Cornelius Wright's folks? A Yes sir, I knowed Alf Wright, and aunt Jinnie, and aunt Darcus.
Q Did Cornelius Wright have any children? A Yes sir.
Q What were their names? A I can't tell you, for it has been a long time ago, and I can't remember their names.
Q You can't recall the name of any one he had when the war came up? A I can remember them, but I can't remember their names.
Q You can't remember the names of any of them that went south with you? A No sir.
Q Where did Cornelius Wright live when the war came up, and about when you started south? A On the other side of Barren Fork.
Q On which side of Barren Fork was that? A On the north side.
Q How far from Barren Fork? A I didn't go out there and measure it, Mr. Hastings. I was too young.
Q What was Cornelius Wright's wife's name? A Her name was Sarah, I think.
Q Was she living when the war came up? A It seems to me like she was dead.
Q How long had she been dead when the war came up? A You must recollect that I was a child and don't remember lots of things. You must give me a chance the same as anybody else. You folks didn't give us niggers no education so we could know and remember things like that.
Q About how long before the war did Sarah Wright die? A I don't know.
Q Will you swear that she didn't go south with Cornelius Wright? A I don't know.
Q You are sure her name was Sarah? A I said I thought it was. What did us niggers know about that. All we could call them was Mistress, and most always that was all we knowed about their names.
Q What was Cornelius Wright's childrens names that went south? A I don't know.
Q You didn't have to call them Master and Mistress did you? A Sometimes we did, and then it has been so long ago, that I have raised a family myself since then.

Q What was Johnson Whitmire's wife's name? A She was named Tempie.
Q Was she the wife that was living with him when the war came up?
A I think she was, but I wouldn't be positive.
Q You was their slave? A Yes sir, and he had plenty of slaves besides me.
Q How many children did Johnson Whitmire and his wife, Tempie, have?
A I will tell you the truth, and I wouldn't swear a lie to get on this roll. I don't know their names -- none but one. I knowed Watt, and that is the only one.
Q You know him because you heard me call his name, and because he was a witness against you in this case. How old was Watt when the war came up? A He was a good sized boy, but I was the largest.
Q If you were a child with them and Johnson Whitmire had some more children, why don't you remember their names? A I just tell you about that. If you had been raised up a slave in the backwoods like us you would not know your playmates' names.
Q The truth of the business is, you weren't there? A Yes sir, I was right there.
Q Did he have a brother named George Whitmire? A Yes sir.
Q What children did George Whitmire have? A He didn't live right there.
Q How far did he live from Johnson Whitmire? A I don't know. I know he lived in the country somewhere.
Q About how far? A I don't know.
Q You never were at George Whitmire's? A I belonged to Johnson Whitmire.
Q You never were at George Whitmire's? A No sir.
Q You don't know whether he had any children or not? A I think he did.
Q You don't know any of Johnson's children but Watt, and you did not know him until he testified against you? A Yes sir, I knowed him before.
Q But you never knew any of the rest of them, did you? A I don't know.
Q Where did Johnson Whitmire live when the war came up? A He lived up in Going Snake District.
Q Near what town? A Tahlequah.
Q About how far from Tahlequah? A I don't know.
Q Your best judgement? A I didn't have no judgement about it.
Q You weren't there, were you? A I was born and raised right there on the old Whitmire place.
Q How far is it from Tahlequah? A I don't know.
Q Was it as much as two miles? A I never have measured it.
Q Was it a mile and a half -- what is your best judgement? A It might have been a mile and a half or five miles.
Q Is five miles your best judgement? A My best judgement is that I don't know.
Q Is five miles your best judgement? A I don't know how far it was.
Q On what side of Barren Fork did he live? A On the north side.
Q How far did he live from the creek? A I don't know that. He didn't live so powerful far, though.
Q Was it five miles? A No, I don't think it was that far.
Q Right when the war come up how far did Johnson Whitmire live from Barren Fork? A I guess his old house is sitting there right now, on the north side of Barren Fork.
Q How far from the creek? A I couldn't even answer lessen I know.
Q I want to know whether it was a short distance, or how far? A If I had been a young woman I might have been able to tell you.
Q How old were you? A I must have been about 4 or 5 years old.
Q And yet, you were married the last year of the war? A I was 13 or 14 years old when I married.
Q What became of your mother? A She died.
Q Where did she die? A Down in Sequoyah.
Q Did your father go south with you? A He didn't go with us but he came.
Q You remember seeing him around Johnson Wright's before you went?
A Yes sir, but his home was on Pea Vine.

Q What kind of a house did Johnson Whitmire live in? A I think it was a big log house.
Q Are you certain about that? A No sir, I won't be certain.
Q Did he live on the hill or in the valley? A On the side of the hill.
Q And you were four or five years old? A I suppose I was about that old.
Q You were born in '43 and left in '47? A I don't know. You ask me too tight questions. If I was sold I would say so.
Q How many slaves did Johnson Whitmire have? I mean, when the war came up? A He had old aunt Tempie, Artie, Mose, Celia, Mary, Nancy and me.
Q Did Celia have any children? A No sir.
Q Did Tempie? A She had two.
Q Were they older or younger than you? A Older.
Q Did they have any about your age? A No sir.
Q Did Mary have any children? A Yes sir.
Q What were their names? A One was named Bass and one was named Tom.
Q You don't know how far from Barren Fork Johnson Whitmire lived, though? A No sir.
Q You didn't know any of his children but Watt? A I did know them, but I have forget their names.
Q You didn't know any of Cornelius Wright's children's names? A No sir.
Q You do not know the names of any of George Whitmire's children? A No sir, we didn't belong to George.

COMMISSION:

Q You have some children, haven't you, that you applied for? A Yes sir.
Q Elijah and Ida are two of them? A Yes sir.
Q Who is the father of these children? A Colly Albert.
Q He was a state man wasn't he? A Yes sir. Old man Bushyhead raised him, but he didn't belong to him.
Q How many times have you been married? A Just the one time.
Q What was your husband's name? A Colly Albert.
Q He doesn't claim any rights as a Cherokee Freedman? A No sir.
Q You have a child called Henry? A Yes sir.
Q Has he got some children? A Yes sir.
Q What are their names? A Harry, Raymond, and Louie.
Q Who is the mother of these children? A Florence.
Q She is a state woman? A Yes sir.
Q She doesn't claim any rights as a Cherokee Freedman? A No sir.
Q You have a girl called Lillie White? A Yes sir.
Q She has some children? A Yes sir.
Q Who was the father of these children? A Henry White.
Q He is a state man? A Yes sir.
Q Have you a child called Nancy Balkum? A Yes sir.
Q Has she any children? A Yes sir.
Q Their father doesn't claim any rights as a Cherokee Freedman, A No sir.
Q Have you a daughter named Malinda? A Yes sir.
Q Has she any children? A Yes sir, six.
Q Does the father of these children claim any rights as a Cherokee Freedman? A No sir.
Q Are they all living? A Malinda is dead, but her children are all living.
Q What relation is Jennie Barnes to you? A She is my sister.
Q A full sister? A Yes sir.
Q Did you have the same father and mother? A Yes sir.
Q Is Robert Barnes Jennie Barnes' son? A Yes sir.
Q The father of Robert was a state man? A Yes sir.

Q Jennie Barnes had a daughter called Lula Knalls? A Yes sir.
Q And she has two children? A Yes sir.
Q What are their names? A Sarah French and Fred K. Knalls.
Q Was the father of Sarah French a state man? A Yes sir.
Q What about the father of Fred? A He was a state man.
Q Who was the father of D-4307 A He was a state man, too.
Q He is dead isn't he? A Yes sir. A Yes sir.
Q John Barnes is a son of Jennie Barnes too? A Yes sir.
Q His father was a state man? A Yes sir.
Q The mother of Gussie and John is a state woman? A Yes sir.
Q Sarah Brown has got a child called Maggie Williams? A Yes sir.
Q What is its father's name? A Marcus Williams.
Q He is a state man? A Yes sir.
Q Jennie Barnes had a daughter named Maggie, and Maggie had a son named George L. Bell. Who was the father of this child? A George Smith, or Bell.
Q Is he a state man? A No sir.
Q He was denied as a Cherokee Freedman? A Yes sir.

WITNESS EXCUSED.

Witnesses for the Nation.

Watt Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Watt Whitmire.
Q What is your post office? A Westville.
Q What is your age? A 53.
Q Are you a Cherokee by blood? A Yes sir.
Q What was your father's name? A Johnson Whitmire.
Q What was your mother's name? A Charlotte.
Q Was your mother living when the war came up? A No sir.
Q How long had she died before the war? A I don't recollect. I was just an infant when she died. I think she died about ten years before the war.
Q Had your father remarried when the war came up? A Yes sir.
Q What was his wife's name then? A Tempie.
Q Did you have any brothers and sisters living when the war came up? A Yes sir, I had one full brother by the name of William, older than me, and then I had some half brothers, named George and Ellis, and a sister named Charlotte.
Q Do you know this applicant that goes by the name of Martha Albert? A If I ever saw her before I don't know it.
Q Did your father own some colored people when the war came up? A Yes sir.
Q Did he own one called Nancy when the war came up? A No sir.
Q Did your father own this colored applicant, who claims that she is the daughter of Nancy, when the war came up? A There was no Nancy on the place.
Q Did your father own this applicant? A No sir, she wasn't on the place.
Q Were you living with your father when the war came up? A Yes sir.
Q How far were you living from Barren Fork? A Right at two miles.
Q On which side of the creek? A South side.
Q Did you ever live on the north side of Barren Fork? A No sir.
Q Do you know one, Andy Alberty, whose post office is Stilwell? A Yes sir.
Q He has just testified upon the stand that your father owned a negro slave by the name of Nancy and this applicant, who was the child of Nancy when the war came up. Was that true? A No sir, he never owned no woman by the name of Nancy.

Q How far did Andy Alberty live from your father when the war came up? A As near as I can guess it, it was 7 or 8 miles.
Q What kind of a house did your father live in? A A double log house.
Q You say your own mother was dead? A Yes sir.
Q Was your stepmother living when the war came up? A Yes sir.
Q What became of your father's slaves? A When father went south we left the women folks all at home. The men had all gone north before we left home. Me and my brother, George, were the last ones to leave the place, and we left all the women folks on the place, and after we left they all went north.
Q None that you owned went south? A Not one.
Q Where did you go during the war? A Down on Red River on the Choctaw side.
Q Did you know Cornelius Wright? A Yes sir.
Q Did you know his son, Cale? A Yes sir.
Q How far did they live from you? A Some five or six miles.
Q On what side of Barren Fork? A On the southeast side from us.
Q Did you see them down on Red River during the war? A Yes sir.
Q Did they have some slaves down there? A Yes sir.
Q Did they have a woman by the name of Nancy? A If they did I don't know it.
Q Did you ever see this applicant down there? A No sir.
Q Did you ever see her anywhere before? A No sir, this is the first time I ever saw her.
Q How long were you all and Cornelius Wright's people together in the Choctaw Nation? A I don't know. We moved away and left them there. We moved there in the early fall and left early the next spring, and we left Cornelius Wright's folks living there.
Q They were related to you? A Yes sir.
Q You know that Cornelius Wright didn't have any slave of your father's by the name of Nancy, down there? A No sir.
Q Did you ever know the alleged father of this applicant who she said went by the name of Charley Bowland? A No sir.
Q Was he in your neighborhood before the war? A I never heard of him.
Q Did you see him down on Red River during the war? A No sir.

MR. NEAL:

Q You say you and your brother went off and left the women folks there? A Yes sir.
Q You mean the slaves? A Yes sir.
Q You also said that they all went north? A Yes sir.
Q Do you know where they went? A I don't know only what they told me. After the war they told me they went to Fort Scott. One of the men told me that.
Q You don't know, of your own personal knowledge, where they went? A No sir, I just have their word.
Q You say that one of the men told you? A Yes sir, Dick and Mose both told me that the women folks were all in Fort Scott.
Q You said the men folks all went north? A Yes sir, they went north first -- before we left.
Q All you know about where the women folks went is what Dick and Mose told you, and they left before you did? A Yes sir.
Q You say your father didn't own any slave by the name of Nancy? A No sir.
Q Did he own one by the name of Nannie? A Yes sir, there was a little girl by the name of Nannie.
Q How old do you say you are? A 58.
Q That would make you how old when the war broke out? A Between 9 and 10.
Q You were acquainted with all of your father's slaves, were you? A Yes sir.
Q Knew all of the children? A Yes sir.

Q How many children did Rachel have? A 3 or 4 -- I don't know just exactly whether it was 3 or 4.
Q How many children did Sookie have? A There was Charlotte, Lisa, Ibby and Mary.
Q There was a slave there named Fronie? A Yes sir, but I have forgot which woman was her mother.
Q How many children did Fronie have? A One.
Q Of your knowledge, you don't know where your father's slaves went? A Not only what they told me. They told me they went north.
Q You never have seen any of the women folks since then? A Not since the war.
Q You don't know where they are now, do you? A Not for certain. I never have been right to their houses.
Q You never have spoken to one of the negro women that belonged to your father, since the war? A No sir.
Q The only slaves of your father's that you have seen are Rose and Dick? A Yes sir.
Q How many slaves did your father have when the war broke out? A I would have to count them up.
Q About how many? A I guess there were 18 or 20, children and all.
Q You have named four children of Rachel's --- A As well as I recollect, I said there were that many.
Q Five of Sookie's? A Yes sir.
Q And one of Fronie's? A Yes sir.
Q How many more children were there? A There was one by the name of Charlotte that had one or two children I think.
Q Do you think that, being only 9 or 10 years old, you would recognize a woman 50 or 60 years old who was a girl at the outbreak of the war? A I guess not.
Q Then you don't know anything about Martha Albert -- anything about who she is, or anything about her? A No sir.
Q If she belonged to your father you don't know it? A No sir.

MR. HASTINGS:

You know your father didn't have a grown woman, with children, by the name of Nancy when the war came up? A No sir, he didn't.

COMMISSION:

Q You have testified in this case once before? A Yes sir.
Q Are you the Watt Whitmire that testified at Fort Gibson in 1901? A Yes sir.
Q Do you know this man, Dillingham? A No sir, I have heard of him frequently.
Q Did he live in your neighborhood? A I think not. I have heard my father speak of him.
Q You do not know how near he lived to your home, do you? A No sir, I know the place they say he lived on.
Q You knew this Andy Alberty that testified here awhile ago? A Yes sir.
Q Did you know him before the war? A No sir.
Q When was the first time you ever knew him? A Since the war I got acquainted with him.
Q You don't know whether he was in the habit of visiting your father's house or not? A No sir.
Q Your mother's name was Lottie? A Charlotte.
Q You belonged to the second marriage? A No, the first.
Q

MR. NEAL:

Q How long before the war was it that your father married Temple? A I don't recollect just when it was. I was a boy, up and running around, I guess two or three or four years old. It was anyway, three or four years before the war.

Q You were about 9 or 10 when the war broke out? A Yes sir.

MR. HASTINGS:

Q Was there any other Johnson Whitmire living around there before the war? A No sir.

COMMISSION:

Q Do you know what year it was that you went to Red River? A No sir, I don't.
Q What is your best judgement as to what year it was? A It would have to be a round about guess. I guess it was the second year of the war.
Q Do you remember distinctly about going to the Choctaw Nation? A Yes sir.
Q You remember the trip down there, and the people you met down there? A Yes sir.

WITNESS EXCUSED.

Cale Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Cale Wright.
Q Where do you live? A Tahlequah.
Q How old are you? A I am 59.
Q What was your father's name? A Cornelius Wright.
Q Were you living with your father when the war came up? A Yes sir.
Q Where? A About 3 or 4 miles west of Dutch Mills, on the Cherokee side.
Q What District? A Going Snake.
Q How far from Barren Fork? A About two and a half miles, I guess.
Q Where did your father go during the war? A South.
Q Did you go with him? A I didn't exactly start with him, but I got with him at Fort Smith when he was on the way.
Q Did you continue on the trip with him? A Yes sir.
Q Where did you go to? A The first place we stopped at was Armstrong's Academy in the Choctaw Nation, then we moved from there down to 10 miles south of Doaksville, near Red River.
Q Do you know this applicant, Martha Albert? A No.
Q She has testified that she and her mother, Nancy went south with your father during the war, and that her mother, Nancy, belonged to Johnson Whitmire, as well as herself, at the beginning of the war? Is that true? Did a Nancy Whitmire, who had one or two children, go south with your father? A They were not with him when I came up with him.
Q Did they have a Nancy Whitmire anywhere on that trip? A No sir.
Q Were you ever about Johnson Whitmire's place before the war? A Yes sir, I boarded there and went to school two sessions.
Q And you lived in his neighborhood? A Yes sir, within five miles.
Q Did Johnson Whitmire have some slaves? A Yes sir.
Q Did he have a slave by the name of Nancy who had some children when the war came up? A No sir, I never heard of that name while I was there going to school.
Q You lived in the same neighborhood? A Yes sir.
Q You were related to Johnson Whitmire? A I suppose we were distantly related, but I don't know just how much.
Q You do not know the degree of relationship? A No sir.
Q Did you ever see this applicant down south after the war or during the war? A I am just looking at her, let me talk to her some and see.
Q Are you satisfied, from the conversation that you have had with her, that she was with your father down south? A No, she could not have been.

Q Did you know this Andy Alberty? A Yes sir.
Q How far did he live from Johnson Whitmire before the war?
A It must have been 8 miles, across the mountain.
Q You swear postively that your father did not have a woman by the name of Nancy, and her child, that belonged to Johnson Whitmire, down on Red River during the war? A No sir.

Applicant to witness--- Was Arthur with you? A No.
Q Was Rose? A Yes, there was a Rose -- Lucindy's daughter.
Q Was Jinnie with you? A Jinnie died in '61.

MR. HASTINGS:

Q You know that no Nancy Whitmire went south with your father?
A No sir.

MR. NEAL:

Q You said just now that you judge from your conversation with the applicant, that she could not have been with your father down there? A No sir, she couldn't.
Q The reason that you say she was not with your father is because she doesn't seem to know enough about the people? A That is it.
Q Upon that you base your judgement? A Yes sir.
Q There were a good many slaves that went with your father down there? A Yes sir, several.
Q Did any of the Whitmire niggers go with your father? A No. The Whitmires went out there themselves and we all went to ourselves, and at last we all got into the same neighborhood before we started back.
Q You didn't go out of the Territory at all? A No, we stopped on the north side of the river in the Choctaw Nation.
Q You say that you boarded at Johnson Whitmire's and went to school, and you say he had no slave named Nancy-- name some of his slaves--- A You call them off.
Q I want you to call them off? A He had Hannah, Myra, Fronie, Rachel, Ibby, Mary, and there might have been some young ones, but those are the older ones.
Q Didn't he have one name Jane? A Not that I know of.
Q Didn't he have one named Mattie? A No.
Q Didn't he have one named Nannie? A Well, I don't know, but if he did she must have been mighty small.
Q Didn't he have one named Sookie? A Yes, there was one named Sookie.
Q Do you know the names of any of the men? A Yes, there was Dick, Mose, Mike, Frank, and Mark.
Q What was Johnson Whitmire's wife's name when the war came up?
A Her name was Tempie.
Q Were you acquainted with his first wife? A No, she was dead long before I could remember her.
Q How old were you when you boarded there? A It was along in '50. I was a good big chap.
Q You remember the names of all of those slaves by having boarded there? A Yes sir.
Q How far did you live from there? A About 5 miles, I reckon. In our country we had what we called bridle ways that were nearer, but it was about 5 miles around.

MR. HASTINGS:

Q Did you mean in the year '50 or between '50 and '60? A Yes sir, that is it -- between '50 and '60.
Q About how long before the war? A I couldn't tell that.

The war broke out in '61, and it must have been three or four years before the war.

Q Were you there frequently besides boarding there? A Yes sir.

MR. NEAL:

Q You said when you were south on Red River that the Whitmire folks got into the same neighborhood? A Yes sir.
Q And some of the slaves were there? A Yes sir.
Q Old man Johnson Whitmire didn't carry out any slaves? A I think George had a slave or two.
Q You say that none of Johnson Whitmire's slaves were there? A No, they all went north.

COMMISSION:

Q Have you ever seen this woman before, to your knowledge? A No sir, I don't know anything about her.
Q How far do you live from Melvin? A I live up to Tahlequah, and I don't know just how far it is.
Q Do you know any of these applicants --- any of this woman's children? A No sir.

WITNESS EXCUSED.

J. W. Alberty, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A J. W. Alberty.
Q What is your post office? A Westville.
Q How old are you? A Well sir, I will be 71 years old the 26th. day of July.
Q This is the case of Martha Albert, in which you have given testimony before? A Yes sir?.
Q You knew Johnson Whitmire before the war? A Yes sir.
Q How far did you live from him? A Six or Seven miles.
Q You testified about the sale of some slaves to a man by the name of Dillingham? A Yes sir.
Q About when did he sell them to Dillingham? A It was either in '47 or '48.
Q Do you know this applicant here? A No sir.
Q She has testified that her mother was named Nancy and that her father was named Charley Bowland. Did you know the Nancy, the alleged wife of Charley Bowland? A Yes sir.
Q Who did she belong to? A Old man Dillingham moved to Texas and took this family with him.
Q To whom did she previously belong? A To Johnson Whitmire.
Q And Dillingham acquired her from Johnson Whitmire in the year of 1847 or 1848? A Yes sir.
Q Are you certain that her name was Nancy? A Yes sir.
Q What became of Charley Bowland? A He went with Dillingham.
Q Do you know whether Nancy had some children? A She had two or three.
Q You don't know whether this applicant was one of them or not? A No sir.
Q Did Johnson Whitmire have a grown slave by the name of Nancy when the war came up? A No sir, not that I know of.
Q You were familiar with him? A Yes sir.
Q Are you prepared to say that Charley Bowland was not in that country when the war came up? A Yes sir.
Q Do you know Andy Alberty? A Yes sir.
Q Is he a relative of yours? A Yes sir.

Q Where did he live before the war? A He lived right close to Oak Grove school house.
Q How far from Johnson Whitmire's? A Between 7 and 8 miles.
Q Then Nancy, the wife of Charley Rowland, was taken south? A Yes sir.
Q What was the citizenship of Dillingham? A He wasn't no citizen at all, he was just a white man.
Q Well, he was a United States citizen? A Yes sir.
Q Where did he live in '49 or '50? A Before he went to Texas he lived in Arkansas.

MR. NEAL:

Q You lived closer to Dillingham than you did to Johnson Whitmire didn't you? A Yes sir.
Q You were better acquainted with Dillingham's slaves than you were with Johnson Whitmire's? A Yes sir.
Q You knew more about this woman after Dillingham bought her than than you did when she belonged to Johnson Whitmire? A Yes sir.

WITNESS EXCUSED.

Jeff Catcher (Tik-nee-sky), being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Jeff Catcher.
Q What is your postoffice? A Stilwell.
Q How old are you? A I was 65 the 18th, day of last month.
Q Are you a Cherokee citizen? A Yes sir.
Q You are also known as Jeff Tik-nee-sky? A Yes sir, that is my Cherokee name.
Q Where did you live before the war? A In Going Snake District, on Pea Vine.
Q Close to where you live now? A About 300 yards west of where I live now.
Q Did you know Johnson Whitmire before the war? A Yes sir.
Q How far did you live from him? A It was about three quarters of a mile, I reckon, maybe a leetle over.
Q Were you a soldier in the army? A Yes sir.
Q You were about grown when the war came up? A Yes sir.
Q Did Johnson Whitmire have some slaves? A Yes sir.
Q Did he have a grown woman slave by the name of Nancy, who had some children when the war came up? A No sir, I don't recollect one by that name.
Q Were you frequently at his house? A Pretty near all the time. Once a week, anyhow. I was there pretty much all the time.
Q Do you know this applicant, who gives her name as Martha Albert? A No sir.
Q Did you ever see her before? A No sir.
Q Did you know a white man that lived across the line by the name of Dillingham before the war? A No, I never saw him, but I have heard him talked of a good deal.
Q You were too small to remember him? A Yes sir, but I have heard of him.
Q You don't know whether he bought some slaves of Johnson Whitmire or not? A I don't know. He didn't after I got big enough to recollect.
Q Did Johnson Whitmire, when the war came up, have a woman by the name of Nancy? A No sir.
Q What army were you in? A The Federal army.
Q Do you know Andy Alberty? He just testified here awhile ago?

A Yes sir.
Q How far did he live from Johnson Whitmire? A Between 7 and 8 miles.
Q Did you know a free colored man in that country by the name of Charley Bowland? A I have heard of him, but I don't recollect him.
Q He wasn't there just before the war? A No sir.

MR. NEAL:

Q You say that you don't remember a woman named Nancy that belonged to Johnson Whitmire? A No sir.
Q You don't mean to say that he didn't have one by that name, but that you just don't remember her? A If he had one it must have been a small child, for I know all the old ones. I think I can name all the old ones.
Q Name them? A The old women that I knew was Myra, Em, Sookie, Hannah, Rachel, Fronie, Mary, Charlotte, and the balance were small and I don't recollect their names.

MR. HASTINGS: Q. Was Andy Alberty ever to see you lately to see about this case? A Yes sir, last Sunday.
Q What did he say to you? A He asked me if I knew of Mr. Whitmire having a woman by the name of Nancy.
Q What did he say about it? A He didn't say that he knew anything about it. He just wanted to find somebody that knew them.
Q Did he say that he knew one at that time by the name of Nancy? A He didn't say whether he did or not? He just wanted to find somebody that did know her. I told him I didn't think Johnson Whitmire owned any nigger by that name.
Q That is the same Andy Alberty that you saw out there in the hall who has just testified here? A Yes sir.

MR. NEAL:

Q As soon as Mr. Alberty told you that he wanted to get witnesses who knew this woman who did you go and tell about it? A I told him that there was an old woman up there, Susie Walkingstick, and that if anybody would know about it she would for she was older than I was. I said, for my part, I didn't know anything about it. Afterwards, I saw him and told him that what I knew was not in his favor, but will go against him, for I was there and knew all about his niggers.
Q You sent him around to see Susie Walkingstick, and told him that if he owned one by that name it was before you could remember? A Yes sir.
Q And then you chased out to see if they wanted witnesses for the Nation? A No sir.

COMMISSIONER:

Q How big a place did Johnson Whitmire have? A About 75 acres in cultivation.
Q About how many slaves did he have at the beginning of the war? A He must have had 15 or 20.
Q Was that the only place he had in the Cherokee Nation? A Yes sir.
Q Did he have a plantation anywhere else? A Nothing only a cattle ranch down about Webbers Falls. He and his brother George had a ranch together. They both owned slaves.
Q He didn't have any female niggers down at the ranch? A No sir.
Q You are positive that those are the only two places he had? A Yes sir.

WITNESS EXCUSED.

Charlotte Wright, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Charlotte Wright.
Q What is your post office? A Christie.
Q How old are you? A 58.
Q What was your maiden name? A Whitmire.
Q Who was your father? A George Whitmire.
Q What relation was he to Johnson Whitmire? A A brother.
Q Where did you live before the war? A I lived on Barren Fork, West of the Barren Fork station and east of Christie.
Q How far from where you are living now? A About a mile and a half.
Q You have lived there all your life? A Except when I was south during the war.
Q Did you go south? A Yes sir, we were gone four years.
Q Where did you go? A To Red River -- near Bonham only we were on the Choctaw side.
Q Did you know Cornelius Wright before the war? A Yes sir.
Q Did you see him down on Red River? A Yes sir.
Q Do you know Cale Wright? A Yes sir.
Q You saw these people down south during the war? A Yes sir, we got to be neighbors down there.
Q Did Johnson Whitmire have some slaves before the war? A Yes sir.
Q Do you know this applicant here? A I don't recognize her.
Q Did Johnson Whitmire have a grown woman slave by the name of Nancy when the war came up? A I don't remember her.
Q Was there a free colored man in the neighborhood, by the name of Charley Bowland, when the war came up? A I never heard of it.
Q This applicant gives her mother's name as Nancy and her father's name as Charley Bowland? A I never knew them.
Q Do you state that Johnson Whitmire had any slave by the name of Nancy, who had some children, when the war came up? A If he did I don't know it.
Q He was your uncle? A Yes sir.
Q Were you frequently at his house? A Yes sir.
Q How far did your father live from him? A I guess it was 5 or 6 miles.
Q You lived in the same neighborhood? A Yes sir.
Q And you were frequently at your uncle's place? A Yes sir.
Q Would you stay any length of time? A As long as a week.
Q You knew his family and slaves? A Yes sir.
Q They never had one by the name of Nancy that you know of? A No sir.
Q Did you see any slaves down south with Cornelius Wright, and among them one named Nancy who claimed to belong to your uncle Johnson before the war? A No sir, none of his slaves went south that I know of. They all left him.
Q You didn't see any down there that claimed to have belonged to him? A No sir.
Q You do not remember to have ever seen this applicant before? A No sir.

MR. NEAL:

Q You have not seen any of Johnson Whitmire's female slaves since the war, have you? A No sir.
Q You probably wouldn't remember a girl that was 4 or 5 years old? A I think I would recognize her. I could be mistaken, but I think I would recognize her.
Q How old were you when the war broke out? A I was 14 years old when we had to leave home.
Q You say that if Johnson Whitmire had a slave by the name of Nancy, you don't know anything about it? A No sir.
Q You don't know that he didn't have one by that name, but you just don't know about it? A I never saw one by that name on the place, and I don't think he had one by that name. I don't recollect any-

thing about it, and never heard anything about it.
Q You don't know positively that he didn't have one by that name? A No sir, he didn't have one by that name that I knew of. He didn't have one at home, and I don't think he had any away from home. I never heard of it if he did. But I know there was no one on the place by that name.

WITNESS EXCUSED.

Charles Whitmire, being duly sworn, testified as follows:

MR. HASTINGS:

Q What is your name? A Charles Whitmire.
Q What is your post office? A Procter.
Q How old are you? A 66 I reckon.
Q Are you younger than your sister, Mrs. Wright? A Yes sir.
Q She was your sister? A Yes sir, she was always recognized as my sister.
Q You are the son of George Whitmire? A Yes sir.
Q Johnson Whitmire was your uncle? A Yes sir.
Q Do you remember Johnson Whitmire before the war? A Yes sir.
Q About how old were you when the war came up? A I couldn't tell you -- 12 or 14 I guess.
Q Were you about Johnson Whitmire's frequently? A Yes sir, I stayed there a right smart and went to school from his house.
Q Did Johnson Whitmire have some slaves? A Yes sir.
Q Did he have a grown woman slave who had some children, by the name of Nancy, when the war came up? A Not that I remember.
Q Well, if he had had one that was old enough to be, and was the mother of some children would you have known it? A Yes sir, I think I knowed all of the older ones.
Q You didn't know one by the name of Nancy? A No sir.
Q Do you know this applicant here? A No sir.
Q Did you ever see her before? A Not that I remember.
Q Did you ever know a free colored person by the name of Charley Bowland in the country? A No sir.
Q Then, of course, you never knew his wife, Nancy? A No sir.
Q Did you say that you stayed at Johnson Whitmire's and went to school? A Yes sir.
Q Did you know Johnson Whitmire's wife and family? A Yes sir.
Q Is Watt one of the children? A Yes sir.
Q Where did you go during the war? A I went south to Red River.
Q Did you know Cornelius Wright? A Yes sir.
Q Did you see him down there? A Yes sir.
Q Was he Cale Wright's father? A Yes sir.
Q Did he carry any of Johnson Whitmire's slaves down south with him? A No sir.
Q It has been sworn that he took some of Johnson Whitmire's slaves and among them was this woman, Nancy, and this applicant. Is that true? A If he did, he didn't have them when we got to where they were.
Q You were not old enough to know a white man by the name of Dillingham, were you? A No sir.

MR. NEAL:

Q How old did you say you are? A 66 if I am not mistaken.
Q You are older than your sister? A No sir.
Q Who else was boarding down there and going to school? A Nobody but me and his boy went to school. Sometimes Aunt Tempie had two sisters who stayed there and went to school.
Q When were you there? A I don't know.
Q Were you there off and on for four or five years before the war? A I don't know.
Q Did you stay there more than one year? A I went from there for two or three sessions.

Q You never happened to be there when anybody else was boarding there? A I was there sometimes [illegible] there. I don't remember anybody else.

Q How many years before the war was it? A I am not able to tell you what year it was. I stayed at home, mostly, and then I didn't get up to school but very little.

Q Your cousin, Celia, boarded down there and went to school there? A I couldn't say whether he did or not. If he went to school from there when I did I don't remember it.

Q You said that you were of the opinion that Johnson Whitmire had no slaves by the name of Nancy who was old enough to have children at that time? A No sir.

Q If he did you don't remember it? A No sir, I don't remember ever hearing that name called.

Q You never knew her if she was there? A No sir, I can't remember any of the folks by the place calling one by that name.

MR. HASTINGS:

Q If there had been one there by that name would you have known it? A Yes sir.

MR. NEAL:

Q You would remember it all these years, would you? A I don't know, but I think I would. I remember the names of all of the older ones.

COMMISSION:

Q Where was this school? A On Harvey Fork, on Pea Vine.
Q How far from Johnson Whitmire's? A About a mile and a half.
Q The kind this school? A An old missionary lady taught the school. I don't remember her name.
Q Was it a kind of a convent school? A It was kept up by the Cherokee Nation. It was a public school.
Q How far away was the nearest school to it? A I couldn't say positively just how far away. I expect it was a mile. I couldn't be positive, but I expect it was that far.
Q Was Johnson Whitmire in the habit of taking boarders to attend school? A Yes sir, and so did my father.
Q You were convenient to the school, and the people from the neighboring vicinity sent their children over there to board and go to school? A Yes sir.

MR. NEAL:

Q Was any your father kept boarders? A Yes sir.
Q How did it happen that you didn't board at home? A My uncle had a boy, and had nobody to go to school with him, so I was sent over to go to school with this boy.
Q How near did your father live to the school? A About four miles, but we built a house about three quarters of a mile from the school house where we kept the teacher and boarders.

Witness excused.

[illegible]

Eula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 27th. day of April, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

(Signed) Eula Jeanes Branson.

Subscribed and sworn to before me this 29th. day of April, 1905.

(Signed) Myron White.
Notary Public.

SEAL

Louise Smith, being duly sworn, states that as stenographer to the Commission to the Five Civilized Tribes, she made the above and foregoing copy and that same is a true and complete copy of the original transcript.

Louise Smith

Subscribed and sworn to before me this May 10, 1905.

W. B. Hawkins
Notary Public.

FILED
IN THE
DEPARTMENT OF THE INTERIOR

FILED
MAY 18 1905
COMMISSION TO FIVE TRIBES.

Cherokee Freedman-R-418 to 431, inclusive.

DEPARTMENT OF THE INTERIOR,
COMMISSION TO THE FIVE CIVILIZED TRIBES.
Muskogee, Indian Territory, May 11, 1905.

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In the matter of the application for the enrollment of Martha Albert et al. as Cherokee Freedmen.

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Neal & Lenden, attorneys for the applicants.

Bell, Hastings & Davenport, attorneys for the Cherokee Nation.

C O M M I S S I O N.

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On this, the 11th. day of May, this cause coming on to be heard; the applicants appear neither in person nor by attorney.

The Cherokee Nation, represented by W. W. Hastings, introduces the following testimony:

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Aaron Whitmire, being first duly sworn, testified as follows, on behalf of the Cherokee Nation:

MR. HASTINGS:

Q. Your name is Aaron Whitmire? A. Yes sir.
Q. You are a freedman citizen of the Cherokee Nation? A. Yes sir.
Q. How old are you? A. About 69.
Q. To whom did you belong when the war came up? A. George Whitmire.
Q. What relation was George to Johnson Whitmire? A. They were brothers.
Q. How far apart did they live? A. About four miles when the war came up.
Q. In what District? A. Going Snake.
Q. Did they use to live together? A. Yes sir, till they married.
Q. Were you familiar with Johnson Whitmire's slaves? A. Yes sir
Q. Did you ever know a slave that he had there by the name of Nancy who had Charley Rowland, a free colored man, for her husband? A. Yes sir.
Q. What became of Nancy? A. She was sold to a man by the name of Billingham.
Q. What was Billingham's citizenship? A. A citizen of the United States.

Q. Where did he live? A. Right on the line of -- or close to the line of Arkansas.
Q. Did this Nancy have any children when she was sold? A. I think she had one, is all I recollect.
Q. What was that child's name? A. Martha.
Q. Now, I refer to the Nancy who had a husband by the name of Charley Rowland, a free colored man? A. Yes sir, and so do I.
Q. About how long before the war was it that she was sold to Dillingham? A. As near as I can recollect, it must have been 8 or 10 years or more.
Q. Did Dillingham continue to live over there in Arkansas till the war came up? A. No sir.
Q. What became of him? A. He went to Texas before the war come up
Q. Aaron, it has been alleged here that Johnson Whitmire had another Martha whose mother was Dicy, and that Dicy and that Martha were sold instead of this Martha and Nancy? Did he have another woman by the name of Dicy? A. Yes sir.
Q. Did he have her when the war came up? A. No sir, she was dead.
Q. Did Dicy have any children? A. One.
Q. What was its name? A. Cinthy.
Q. What became of Cinthy? A. She was sold to a man by the name of Russell, who lived in Arkansas.
Q. About how long before the war was she sold? A. 6 or 8 years.
Q. Did Johnson Whitmire have any other Dicy? A. No sir, never did.
Q. Did you ever hear of his selling a Dicy to Dillingham? A. No sir.
Q. Did you ever hear of his selling a little girl by the name of Martha, besides this one? A. No sir, this was the only Martha on the place.
Q. Did he have a Martha when the war came up? A. No sir.
Q. Did you ever see the applicant who gives her name as Martha Albert, who is the wife of Collie Albert? A. I haven't seen her since she was sold.
Q. Did Charley Rowland go to Texas? A. Yes sir,
Q. Was he in the Seing Snake country when the war came up? A. No sir, I never did see him after he went to Texas.
Q. What became of Johnson Whitmire's slaves? Did any of them go to Texas? A. No sir.
Q. What became of his woman slaves? A. They went north.
Q. Who took them north? A. They went off with the soldiers.
Q. How long did you remain up there at the old Whitmire place? A. Till '64.
Q. Then you went to Kansas? A. Yes sir.
Q. Had all of Johnson Whitmire's slaves gone off north with the soldiers? A. All but two, and they were with me. They were two very old women -- Amy and Myra.
Q. Had Cornelius Wright gone south? A. Yes sir.
Q. He took his slaves with him? A. Yes sir.
Q. Did Johnson Whitmire have any other Nancy or Nannie other than the one he sold to Dillingham? A. Yes sir, he had a little girl called Nannie.
Q. Who was her mother? A. Sooky.
Q. What was Sooky's name? A. Smith.
Q. What was her husband's name? A. Mose Smith. He is dead.
Q. Where does she live? A. Up here on Big Creek in Coweeceowee District.

COMMISSION:

Q. How many slaves did Johnson Whitmire have at the beginning of the war? A. He had some 20 or 25.
Q. Can you give their names? A. I could name the old ones.
Q. Give me the names? A. The first old woman was Amy, Myra, Hannah, Sookey, Kizzy, Mike, Dick, Martin, Mose, Saphronia, Rachel, Charlotte, Liza, Aby, Frank, Nannie. That is about all I can recollect.
Q. These are all the older ones? A. Yes sir.
Q. The younger ones you do not remember? A. I cannot recollect them.
Q. How many of these slaves do you know of that are living now, of the 15 or 16 you have just named? A. I don't know of but two that are living.
Q. Where are they? A. Up on Big Creek.
Q. What are their names? A. Nannie Smith and Frank Whitmire.
Q. Where does Frank live? A. On Big Creek.
Q. How old a man is he? A. I don't know just how old a man he is -- right at 60 I guess.
Q. Do you know Martha Williams? A. No sir.
Q. Are you positive now that at the breaking out of the war Johnson Whitmire did not have a slave by the name of Martha? A. Yes sir.
Q. Do you know whether he had a child slave by that name? A. No sir, there was not one by the name of Martha.
Q. You know that of your own knowledge? A. Yes sir.
Q. You mentioned in your testimony about a Nancy who had a daughter called Martha, and that they were sold to Dillingham. Have you ever seen them since that time? A. I never have.
Q. Do you know who this applicant is -- have you seen her? A. I don't know that I would know Martha if I saw her.
Q. How far do you live from Fort Smith? A. I live away up near the Kansas line.
Q. Did you say you knew Charley Rowland? A. Well.
Q. Was he a free colored person? A. Yes sir.
Q. And you know that he married one of Johnson Whitmire's slaves named Nancy? A. Yes sir.
Q. You cannot be mistaken about that? A. No sir.

WITNESS EXCUSED.

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COMMISSION:

After the introduction of the above testimony by the Cherokee Nation, the attorneys for the applicants appeared, by their stenographer, Miss Sorenson, and filed with the Commission a motion for continuance.

MR. HASTINGS:

The attorneys for the Cherokee Nation object to the motion for continuance, filed in this case, for a number of reasons, to wit:

FIRST:-- This case has been continued a number of times upon motion and at the request of the applicants;

SECOND:-- The motion for continuance is not sworn to;

THIRD: -- The motion for continuance does not set up what is expected to be proven by the said Martha Williams, but states that she is an important witness, and does not state what is expected to

be proven by her, so that the Commission can pass upon the materiality and admissability of the testimony;

FOURTH: -- Because the certificate of the attending physician is not sworn to.

COMMISSION:

The motion for continuance will be taken under advisement, and the attorneys will be notified by mail.

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Zula Jeanes Branson, being duly sworn, states that, as stenographer to the Commission to the Five Civilized Tribes, she reported the proceedings had in the above entitled cause on the 11th. day of May, 1905, and that the above and foregoing is a full and complete transcript of her stenographic notes taken in said cause on said date.

Zula Jeanes Branson.

Subscribed and sworn to before me this the 17th. day of May, 1905.

Notary Public.

A. F. Mc.
D. C. L.

DEPARTMENT OF THE INTERIOR,

COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

---

In the matter of the application for the enrollment of Martha Albert et al., as Cherokee freedmen, consolidating the applications of:

| | | | |
|---|---|---|---|
| Martha Albert et al. | Cherokee Freedmen | (D 42) | R 418 |
| Robert Barnes | " " | (D 99) | R 419 |
| Lula Knalls et al., | " " | (D 100) | R 420 |
| Nancy Berkum et al. | " " | (D 101) | R 425 |
| Henry Albert et al. | " " | (D 102) | R 421 |
| John Barnes et al., | " " | (D 103) | R 422 |
| Jerry Albert | " " | (D 104) | R 423 |
| Lillie White et al., | " " | (D 105) | R 424 |
| Malinda McLain et al. | " " | (D 114) | R 426 |
| Frank Gardner | " " | (D 146) | R 430 |
| Joshua Barnes | " " | (D 150) | R 427 |
| Sarah Brown et al. | " " | (D 151) | R 428 |
| Minnie Barnes | " " | (D 152) | R 429 |
| Maggie Bell et al., | " " | (D 182) | R 431 |

D E C I S I O N .

THE RECORDS OF THIS OFFICE SHOW: That applications for enrollment as Cherokee Freedmen were made to the Commission to the Five Civilized Tribes by Martha Albert for herself and minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and minor children, Sarah French and Fred K. Knalls; by Nancy Berkum for herself and minor children, Annie and Walter Berkum; by Henry Albert for himself and minor

children, Harry and Raymond Albert, thereafter, on October 31, 1902, there was filed with the Commission an affidavit showing the birth, on June 4, 1902, of Lewey Albert, son of the applicant, Henry Albert; by John Barnes for himself and minor child, Gussie A. Barnes, thereafter, on August 20, 1902, there was filed with the Commission an affidavit showing the birth, on June 15, 1902, of John A. Barnes, son of the applicant, John Barnes; by Jerry Albert for himself; by Lillie White for herself and minor children, Mattie and Nancy White, thereafter, on July 1, 1902, there was filed with the Commission an affidavit showing the birth, on March 8, 1902, of Amos White, son of the applicant, Lille White; by Charles McLain for his wife, Malinda McLain, and minor children, Samuel, Ella, Christiana, Charles, Turner and Jennetta McLain, thereafter, on September 1, 1901, there was filed with the Commission an affidavit showing the birth, on May 17, 1901, of Mattie McLain, daughter of the applicant, Malinda McLain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself; and by George C. Bell for his wife, Maggie Bell, thereafter, on November 7, 1901, there was filed with the Commission an affidavit showing the birth, on September 18, 1901, of George L. Bell, son of the applicant, Maggie Bell.

THE RECORDS FURTHER SHOW: That on January 11, 1904, the Commission rendered its decision herein, denying said applicants, except Mattie McLain, whose rights to enrollment, through an oversight, were not considered, the right to enrollment as Cherokee freedmen, and that on June 21, 1904 (Departmental letter I.T.D. 4732-04), said decision was duly affirmed by the Department; that, thereafter, on March 25, 1905 (Departmental letter I.T.D. 1332-05), on motion of the applicants, this case was reopened by the Department, and remanded for further testimony and readjudication; and that, thereafter, on April 13, and 27, and May 11, and June 22, 1905, further proceedings in the matter of said applications were had at Muskogee, Indian Territory.

THE EVIDENCE IN THIS CASE SHOWS: That the applicant, Martha Albert, claims the right to enrollment as a Cherokee freedman by virtue of her compliance with the treaty stipulations of 1866, and that all the other applicants herein claim the same right as descendants of the said Martha Albert and one Jennie Barnes, deceased, who, it is alleged, complied with said treaty stipulations of 1866.

The following points are fully established by the evidence, no attempt having been made to disprove them:

(1) That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were full sisters, and were born prior to the commencement of the rebellion.

(2) That all the other applicants herein were born since the commencement of the rebellion, are lineal descendants of the applicant, Martha Albert, and the said Jennie Barnes, deceased, and possess no rights to enrollment as Cherokee freedmen other than as such descendants.

( The records of this office fail to show that Ruth Barnes, mother of the applicants, Gussie A. and John A. Barnes, has ever made application for enrollment as a Cherokee freedman. Her mother, Millie White, and full sister, Viola White, and full brothers, Jim H. and Harry White, were originally listed for enrollment as Cherokee freedmen on Memorandum cards Nos. 10, 13, and 14, and were later transferred to Freedmen Rejected cards, Nos. 317, 320 and 321. On April 24, 1905, their applications for enrollment as Cherokee freedmen were denied by the Commission, and record forwarded to the Department.

George C. Bell, father of the minor applicant, George L. Bell, was denied enrollment as a Cherokee freedman, by the Commission, on April 20, 1904, and on May 26, 1904, -Departmental letter I.T.D. 4050-04,- the Commission's decision was approved by the Department).

THE EVIDENCE IN THIS CASE FURTHER SHOWS: That the applicant, Martha Albert, and the said Jennie Barnes, deceased, were neither the slaves of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the commencement of the rebellion, but, rather, that several years prior to the commencement of said rebellion, they, together with their mother "Nancy", were sold to one Dillingham, a citizen of the United States, were removed from the Cherokee Nation, and it is further shown that they did not return to said Nation on or prior to February 11, 1867. Excepting the Wallace and Kern-Clifton Rolls, none of the applicants herein can be identified on any roll of the Cherokee Nation in the possession of this office.

IT IS, THEREFORE, ORDERED AND ADJUDGED: That, under the provisions of Section Twenty-one of the Act of Congress approved June 28, 1898 ( 30 Stat., 495), Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A.

Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, James White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennette McLain, Mattie McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, are not entitled to enrollment as Cherokee freedmen, and their applications for enrollment as such are accordingly denied.

_____
Commissioner

Dated at Muskogee, Indian Territory,

this _____

Muskogee, Indian Territory, June 9th, 1901.

Mrs. Malinda Nelson,

Dora, Indian Territory.

Dear Madam:-

The Commission is in receipt of birth certificates in the matter of the application of your children, Turner, Jennie and Nettie Nelson, for enrollment as Freedmen of the Cherokee Nation. When you applied for the enrollment of yourself and family, you advised the commission that your correct name was Malinda Nelson. In the certificates as to the births of your children you sign your name as Linnie Nelson. Please advise the Commission promptly whether your correct name is Malinda or Linnie.

Very truly yours,

In answering refer to
Cherokee Freedmen 5-116.

Commissioner.

# NOTICE.

## Cherokee - Freedmen - Enrollment.

The Commission to the Five Civilized Tribes will continue in session at

**MUSKOGEE, IND. TER.,**

from April 1, 1902, until May 31, 1902, inclusive, for the purpose of hearing rebuttal and supplemental testimony with respect to the enrollment of Cherokee Freedmen.

Notice is hereby given to all Freedmen listed as doubtful claimants that after May 31, 1902, their cases will be considered as completed, and will be finally decided by the Commission and reported to the Secretary of the Interior for his approval.

Native Cherokees, Freedmen, or Claimants by adoption who have not already appeared can apply for enrollment until July 1, 1902.

Mrs. Malinda McLain,
Dora, Arkansas/
Cherokee F-D-114
Register.

TAMS BIXBY,
T. B. NEEDLES,
C. R. BRECKINRIDGE,
Commissioners.

COPY.

Cherokee F.D-114

Muskogee, Indian Territory, January 11, 1904.

Malinda McLain,

Dora, Arkansas.

Dear Madam:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and your six minor children, Samuel, Ella, Charles, Turner, Jeanette and Christiana McLain, as Cherokee Freedmen. There has heretofore been furnished your attorney, A. S. Noles, Muskogee, Indian Territory, a copy of the record of proceedings, and there has this day been forwarded to him a copy of the Commission's decision.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles

Commissioner in Charge.

Enc. D-42

Register.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

A. S. McRea,

Attorney for Cherokee Nation,

Muskogee, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell as Cherokee freedmen. You have heretofore been furnished with a copy of the record of proceedings.

The decision, with the record of proceedings had in the same, has this day been transmitted to the Secretary of the Interior

for his review and decision. The action of the Secretary will be made known to you as soon as the Commission is informed of the same.

Respectfully,

Commissioner in Charge.

Enc. D-30

Register.

COPY.

Cherokee Freedmen
D-42, et al.

Muskogee, Indian Territory, January 11, 1904.

W. W. Hastings,
Attorney for Cherokee Nation,
Tahlequah, Indian Territory.

Dear Sir:

There is herewith enclosed a copy of the decision of the Commission to the Five Civilized Tribes, dated January 11, 1904, in the consolidated case of Martha Albert et al., rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

The decision, with the record of proceedings had in the case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be

made known to you as soon as the Commission is informed of the same.

Respectfully,

T. B. Needles.

Commissioner in Charge.

Enc. D-31.

Cherokee Freedmen.
D-42 et al.

Muskogee, Indian Territory, January 11, 1904.

The Honorable

The Secretary of the Interior.

Sir:

There is herewith transmitted the record of proceedings had in the consolidated case of Martha Albert et al., including the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Borkum, Annie Borkum, Walter Borkum, Henry Albert, Harry Albert, Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christiana McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen.

Respectfully,

T. B. [illegible]

Commissioner in Charge.

Through the Commissioner of Indian Affairs.

Enc. D-29.

COPY

Refer in reply to the following:
Land 31284-1924.

DEPARTMENT OF THE INTERIOR,
OFFICE OF INDIAN AFFAIRS,
WASHINGTON, June 9, 1924.

In re
Application for enrollment
as Shoshone Freedmen, viz:

| | | |
|---|---|---|
| Martha Albert, et al. | F.D. 48 | |
| Robert Barnes, | F.D. 78 | |
| Lola Bonilla, et al. | F.D. 109 | |
| Emily Bottom, et al. | F.D. 101 | |
| Henry [redacted], et al. | F.D. 106 | |
| John Burnett et al. | F.D. 104 | Consolidated. |
| Jerry Albert | F.D. 104 | |
| Lillie White, et al. | F.D. 108 | |
| Belinda Mikels, et al. | F.D. 114 | |
| Frank Gardner | F.D. 118 | |
| Joshua Barnes | F.D. 120 | |
| Sarah Brown et al. | F.D. 122 | |
| Minnie Barnes, | F.D. 130 | |
| Maggie Bell, et al. | F.D 132 | |

The Honorable,
The Secretary of the Interior.

Sir:

I have the honor to transmit herewith the record of proceedings had before the Commission to the Five Civilized Tribes in the above consolidated cases of Martha Albert et al., affecting the rights of thirty six applicants for enrollment as Shoshone Freedmen. The Resolution by the Commission, dated January 11, 1924, denied the application of all the applicants in the above named cases, to be enrolled as Shoshone Freedmen.

The record shows theapplications for enrollment as Cherokee freedmen were made to said Commission by Martha Albert for herself and minor children Elijah Albert and Ida Albert; by Robert Burnes for himself; by Lula Hanlin for herself and minor children, Sarah Frank and Fred L. Hanlin by Henry Burnes for herself and minor children, Annie Burnes and Walter Burnes by Henry Albert for himself and minor children, Henry Albert and Raymond Albert; that subsequent to the date of the original application a birth affidavit, which is made a part of the record, was filed with the Commission, showing the birth of Henry Albert; by John Burnes for himself and minor child, Cassie A. Burnes, that subsequent to the date of the original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of John A. Burnes; by Henry Albert for himself; by Lillie White forherself and minor children, Bobbie White and Henry White; that subsequent to the date of the original application, a birth affidavitwhich is made a part of the record herein, was filed with the Commission, showing the birth of Jane White; by Charles Hanlin for his wife, Malinda Hanlin and his minor children, Emmett, Ella, Christian, Charles, Turner and Jeanette Hanlin; by Frank Harper for himself; by Jackson Burnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Burnes for herself; by George C. Reid for his wife Maggie Reid, that subsequent to the date of his original application, a birth affidavit, which is made a part of the record herein, was filed with the Commission, showing the birth of George R. Reid. Statements were made by

enrolled as Cherokee freedmen upon the claim made that the principal applicant Martha Albert and her sister, Jennie Barnes, now deceased, from whom the other applicants claim descent, were at the commencement of the War of the Rebellion the slaves of one Johnson Whitmire, a Cherokee citizen, that during the war these alleged slaves, Martha Albert and Jennie Barnes went South to Red river in the Choctaw Nation where they remained until the fall of 1866 when they claim to have returned with one Ellis Harlin to the Cherokee Nation and settled with him on the Sale Starr place near Cherokee Junction. The evidence adduced shows that Johnson Whitmire and George Whitmire, brothers and Cherokee citizens, owned before the war several slaves, designated as the "Whitmire darkies." The attempt to identify Martha Albert and Jennie Barnes as one of the "Whitmire darkies" at the commencement of the war has signally failed.

Wash Whitmire, son of Johnson Whitmire, who claims to have known the names of all the slaves of his father, testified that he had no recollection of any two female girl slaves named Martha and Jennie and cannot even recall the fact that his father ever owned a slave named Nancy Whitmire, the mother of said girls. Harry Still whose master was George Whitmire, brother to Johnson Whitmire who only lived four miles distant and knew all the colored people raised by Johnson Whitmire, testified positively that Johnson Whitmire did not own a slave named Nancy Whitmire nor a slave named Martha Whitmire. J. W. Sherry who lived in the Going Snake district, Cherokee Nation

before the war and the well knew Johnson Whitmire from whom he lived a distance of two or twelve miles, testified, that the Whitmire boys, George Whitmire and Johnson Whitmire, at the time they divided up their property in 1867 sold a slave named Nancy Whitmire with her whole family to a man named Billingham who moved them with his family right across the line into Arkansas at a town called Dutch Town or Salem where he remained until he moved to Texas in 1880-1; that he knew the decision "better after Billingham got them than I did however" and that Billingham only lived five miles from where witness then lived. It is evident that the principal applicant Martha Albert and her sister Jennie Burnes were living in Arkansas instead of the Choctaw Nation at the close of the war as Jennie Burnes' husband testified that he married her in December, 1865, at Fort Smith, Arkansas, where it appears Jennie Burnes was hired out and where her husband worked much of his time after marriage. Martha Albert claims to have married her husband in the Choctaw Nation during the war while her husband denies having married her until after his removal to the Choctaw Nation. The death of Nancy Whitmire, the mother of the principal applicant Martha Albert, is shown to have occurred in 1866 but the place of her burial is not definitely shown. The belief that the principal applicant, Martha Albert was living in Arkansas and not in the Choctaw Nation as alleged by her, is further strengthened by the testimony of Mrs. Ruth Hunt and both maiden and Mrs. Rosa Fisher who knew Nancy Whitmire and Nancy Smith

with whom it is claimed Fanny Whitmire and her two daughters, Martha and Jennie returned from the Chester Nation to the Cherokee Nation in November 1866. Mrs. Hunt and Mrs. Finley testify positively to the fact that their father Ellis Martin did not return to the Cherokee Nation until February or March, 1867, and that no colored people returned in his company, that the first time they ever saw Martha Albert was in the "summer of 1867" when their father "went over in Arkansas somewhere brought Van Buren and hired the man to work and work", that the man's name was Albert and his wife's name was Martha, that neither the man nor his wife ever claimed to have ever been the slaves of Johnson Whitmire whom witnesses knew before the war, nor did either claim to be a Cherokee freedman that they ever heard of, until the roll was taken at Vinita in 1896 and applicants were identified as former kind help. John Mellen testified that Martha Albert's husband told him, "he found her at the Martin place." If that be true and Martha Albert omits that on her return she first settled on the Ellis Martin place on which Ellis Martin lived 22 it is evident that she did not return to the Cherokee Nation until the "summer of 1867." In view of all the facts and circumstances of this case, this office is of the opinion that the principal applicant Martha Albert and her sister Jennie Barnes now deceased, of whom the other applicants claim to be descendants, were not the slaves of Cherokee citizens at the commencement of the War of the Rebellion nor were they then colored persons in the Cherokee Nation, & & the commencement of the rebellion and were not

they been, which is denied, it is shown that they went out of the Cherokee Nation and did not return thereto prior to February 11, 1867, in contravention of the treaty of July 19, 1866, which provides:

"All freedmen who have been liberated by voluntary act of "their former owners or by law, as well as all free Colored persons "who were in the country at the commencement of the rebellion and "are now residents therein, or who may return within six months, "and their descendants, shall have all the rights of Native "Cherokees."

As the burden of proof lies upon claimants to establish their rights to recognition as Cherokee freedmen under the provisions of the treaty of July 19, 1866, and as they have failed to bring themselves within its purview, it follows that all of the foregoing applications as Cherokee freedmen must be denied.

We come now to the discussion of another point involved. It appears of record that the names of Martha Albert and her minor children Elijah and Ida are found upon the Kern-Clifton roll while the names of several of the descendants are found upon the Wallace roll. None of the applicants names are to be found upon the authenticated roll of 1880 nor upon the census roll of 1896.

Attorney for applicants contends that as the name of Martha Albert and her minor children, Elijah and Ida appear upon the Kern-Clifton roll, that such fact is conclusive of their rights as Cherokee freedmen and pleads res adjudicata to any action by the Commission. Such contention can not be maintained. Congress by Act of June 28, 1898, Sec. 21, directed the Commission

to the Five Civilized Tribes as follows:

"It shall make a roll of Cherokee freedmen in strict "compliance with the decree of the Court of Claims rendered the "third day of February eighteen hundred and ninety-six."

The Court in its decree of February 3, 1896 (See P.4), instructed said Commission as follows:

"The said Commissioners in ascertaining the identity of the "freedmen entitled to share under the decree, shall accept what is "known as the authenticated Cherokee roll, the same now being on file "in the office of the Secretary of the Interior, having been "furnished to him and purporting to have been taken by the Cherokee "Nation in 1880 for the purpose of showing the number of freedmen "then entitled to citizenship in the said nation under the terms "of the treaty between the United States and the Cherokee Nation "hereinbefore referred to, and their descendants, and no evidence "shall be accepted by said commission tending to disprove the "citizenship of any of the persons whose names appear upon "said roll", and supplementary thereto, Sec. 21, of the Act of June 28, 1898, states squarely the proposition that the roll of Cherokee citizens of 1880 (not including freedmen) is "the only roll intended to be confirmed by this and preceeding Acts of Congress", thus in effect declaring that the plea of res adjudicata can not prevail unless the name of the applicant appears upon the authenticated roll of 1880 - which is not here claimed. Neither the fact of claimant's name appearing upon the Kern-Clifton roll nor the fact of the names of her descendants

appearing upon the Wallace roll, constituted any bar to further action by the Commission, as the Commission was expressly empowered by sec. 21 of the Act of June 28, 1898, to "investigate the right "of all other persons whose names are found on any other rolls "and omit all such as may have been placed thereon by fraud or with- "out authority of law, enrolling only such as may have lawful right thereto." Thus the Commission was left free to act, as upon a new inquiry, to determine what freedmen, omitted from the roll of 1880 but "whose names are found on any other rolls" are entitled to the benefit of Article IX of the treaty of 1866. For the foregoing reasons, I concur in the opinion of the Commission that the applications for enrollment of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred E. Knalls, Nancy Berkum, Annie Berkum walter Berkum, Henry Albert, Harry Albert Raymond Albert, Lewey Albert, John Barnes, Gussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Amos White, Malinda McLain, Samuel McLain, Ella McLain, Christian McLain, Charles McLain, Turner McLain, Jennetta McLain, Frank Gardner, Joshua Barnes, Maggie Bell and George L. Bell, as Cherokee freedmen, should be denied under the provisions of sec.21 of the act of Congress approved June 28, 1898 (30 Stats., 495), and it is recommended that the decision of the Commission therein, dated January 11, 1904, be affirmed.

Very respectfully,

A. C. Tonner,

Acting Commissioner.

D.C. 21473-1904

I.T.D. 4732-1904.

L R S

W.C.F.

J.P.

FHE

DEPARTMENT OF THE INTERIOR,

WASHINGTON, June 21, 1904.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

January 11, 1904, you transmitted the recordin the consolidated case embracing the applications of Martha Albert et al (F.D.-42), for enrollment as Cherokee freedmen, including your decision of the same date, rejecting the applications.

Reporting June 9, 1904, the Acting Commissioner of Indian Affairs recommends that your decision be approved. A copy of his letteris inclosed.

The Department affirms your decision, for the reasons stated therein.

Respectfully,

(Signed) E. A. Hitchcock,

Secretary.

1 inclosure.

Cherokee Freedmen

D-114.

Muskogee, Indian Territory, June 28, 1904.

Malinda McLain,

Dora, Arkansas.

Dear Madam:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting, among others, your application for the enrollment of yourself and six minor children, Samuel, Ella, Charles, Turner, Jennetta and Christiana McLain, as Cherokee freedmen, was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

Cherokee Freedmen

D-42 et al.

Muskogee, Indian Territory, June 28, 1904.

W. W. Hastings,

Attorney for the Cherokee Nation,

Tahlequah, Indian Territory.

Dear Sir:

You are hereby advised that the Commission's decision, dated January 11, 1904, rejecting the applications for the enrollment of Martha, Elijah and Ida Albert; Robert Barnes; Lula Knalls, Sarah French, and Fred W. Knalls; Henoy, Annie and Walter Berkum; Henry, Harry, Raymond and Lewey Albert; John, Cussie A., and John., Barnes; Jerry Albert; Lillie, Mattie, Mattie, Nancy, and Amos White; Melinda, Samuel, Ella, Charles, Turner, Jennetta, Christiana, McLain; Frank Gardner; Joshua Barnes; Sarah Brown, Maggie Williams; Minnie Barnes; Maggie, George., Bell; was affirmed by the Secretary of the Interior on June 21, 1904.

Respectfully,

Commissioner in Charge.

W. C. P.
FHE.

DEPARTMENT OF THE INTERIOR,

D. C. 26475-1905.
I. T. D. 1332-1905.

WASHINGTON. March 25, 1905.

Commission to the Five Civilized Tribes,

Muskogee, Indian Territory.

Gentlemen:

The Department has considered a motion filed by attorneys Neal and London, of Fort Smith, Arkansas, dated December 10, 1904, to reopen the Cherokee enrollment case of Martha Albert, et al.

January 11, 1904, you decided that the applicants in said case were not entitled to enrollment, and on June 21, 1904, your decision was approved by the Department.

The attorneys desire the case reopened in order that newly discovered evidence may be introduced to show that previous to the breaking out of the war Johnson Whitmire owned two slaves by the name of Martha; that prior to the breaking out of the war one of said slaves was sold to a man named Dillingham who lived in Arkansas; that she married a man named Williams; that the other Martha, known as "Little Martha", who is one of the applicants in the case of Martha Albert, et al, married a man named Albert who lived in the Cherokee Nation. It is claimed by said attorneys that the evidence introduced by the Cherokee

Nation at the original hearing does not apply to the applicant herein.

It appears from the motion and the affidavits submitted that the case should be reopened. The motion is hereby granted. You will so notify the applicants and their attorneys and the attorney for the Cherokee Nation, and allow a reasonable time for the introduction of additional testimony, after which you will readjudicate the case.

The motion, the record and other papers in the case are inclosed.

Respectfully,

(Signed) E. A. Hitchcock

Secretary.

6 inclosures.

COPY.

Cherokee Freedmen

R-426.

Muskogee, Indian Territory, April 8, 1905.

Malinda McLain,

Dora, Arkansas.

Dear Madam:

In the matter of the application for the enrollment of yourself, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1332-1905), remanding this case for rehearing and readjudication.

You are, therefore, hereby directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as you may desire in the matter of your said application. You are further advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in this case.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED) T. B. Needles.
Commissioner in Charge.

Incl. S-56.
Register.

COPY.

Cherokee Freedmen

R-418, et al.

Muskogee, Indian Territory, April 8, 1905.

Neal & London,

Attorneys for Martha Albert, et al.,

Fort Smith, Arkansas.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that the Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1533-1905), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED) T. B. Needles.
Commissioner in Charge.

Incl. S-63.
Register.

COPY.

Cherokee Freedmen
R-418, et al,
Muskogee, Indian Territory, April 8, 1905.

Bell, Hastings & Davenport,
Attorneys for the Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

In the matter of the applications for the enrollment of Martha Albert, et al., as Cherokee freedmen, you are advised that this Commission is in receipt of departmental letter of March 25, 1905 (I.T.D. 1332-1905), remanding this case for rehearing and readjudication.

The applicants have, therefore, this day been directed to appear before the Commission at its offices in Muskogee, Indian Territory, at nine o'clock A. M. on Thursday, April 20, 1905, and introduce such testimony as they may desire in support of their said applications. You are advised that the Cherokee Nation will be permitted to appear on that date and introduce such testimony as it may desire in these cases.

For your information there is herewith inclosed a copy of departmental letter referred to.

Respectfully,

(SIGNED). T. B. Needles.
Commissioner in Charge.

Incl. 8-62

Cherokee Freedman
R-426

COPY.

Muskogee, Indian Territory, July 24, 1905

Charles McLain,

Dora, Arkansas.

Dear Sir:

There is inclosed herewith a copy of the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, denying the application for the enrollment as Cherokee Freedmen, of your wife, Malinda McLain, and children, Samuel, Ella, Charles, Turner, Jennetta, Christiana and Mattie McLain. There has heretofore been furnished your attorneys, Neal and London, Fort Smith, Arkansas, a copy of the record of proceedings, and there has this day been forwarded to them a copy of the Commissioner's decision.

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED: Tams Bixby.
Commissioner

Incl. R-38

COPY.

Muskogee, Indian Territory, July 24, 1906

The Honorable,

The Secretary of the Interior.

Sir:

There is transmitted herewith the record of proceedings had in the matter of the applications for the enrollment as Cherokee Freedmen of Martha Albert, Elijah Albert, Ida Albert, Robert Barnes, Lula Knalls, Sarah French, Fred M. Knalls, Nancy Berkum, Annie Berkum, Walter Berkum, Henry Albert, Harry Albert, Raymond Albert, Lowry Albert, John Barnes, Cussie A. Barnes, John A. Barnes, Jerry Albert, Lillie White, Mattie White, Nancy White, Ames White, Malinda McLain, Samuel McLain, Ella McLain Christiana McLain, Charles McLain, Turner McLain, Jeanette McLain, Mattie McLain, Frank Carmer, Joshua Barnes, Sarah Brown, Maggie Williams, Minnie Barnes, Maggie Bell and George L. Bell, including the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1906, rejecting said applications.

On January 11, 1904, the Commission to the Five Civilized Tribes rendered its decision denying said applicants,

excepting Mattie McLain, whose rights to enrollment were not at that time considered, and on June 21, 1904 (I.T.D. 4713-1904), said decision was affirmed by the Department. On March 25, 1905 (I.T.D. 1332-1905), this case was re-opened by the Department, and remanded for further testimony and readjudication.

Respectfully,

(SIGNED) Tams Bixby.
Commissioner

Incl. B-22

Cherokee Freedmen
R 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1905

Neal and Landon,
Attorneys for Martha Albert et al.,
Fort Smith, Arkansas.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert, et al., C.F.R., 418, Robert Barnes, C.F.R. 419, Lula Knalls et al., C.F.R. 420, Nancy Berkum, et al., C.F.R. 426, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White et al., C.F.R. 424, Malinda McLain et al., C.F.R. 425, Frank Gardner, C.F.R. 430, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Neal and London--2.

The decision, with the record of proceeding s had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

SIGNED: James Bixby.

Commissioner

Inal. B-36

Cherokee Freedmen

N 418 et al.

COPY.

Muskogee, Indian Territory, July 24, 1905.

Bell, Hastings and Davenport,

Attorneys for the Cherokee Nation,

Muskogee, Indian Territory.

Gentlemen:

There is inclosed herewith the decision of the Commissioner to the Five Civilized Tribes, dated July 24, 1905, rejecting the applicants for enrollment as Cherokee Freedmen embraced in the consolidated cases of Martha Albert et al., C.F.R. 414, Robert Barnes, C.F.R. 419, Lula Krallis et al., C.F.R. 420, Nancy Berkum et al., C.F.R. 425, Henry Albert et al., C.F.R. 421, John Barnes et al., C.F.R. 422, Jerry Albert, C.F.R. 423, Lillie White et al., C.F.R. 424, Malinda McLain et al., C.F.R. 426, Frank Gardner, C.F.R. 430, Joshua Barnes, C.F.R. 427, Sarah Brown et al., C.F.R. 428, Minnie Barnes, C.F.R. 429, and Maggie Bell et al., C.F.R. 431. You have heretofore been furnished with a copy of the record of proceedings.

Bell, Hastings & Davenport,-2

The decision, with the record of proceedings had in this case, has this day been transmitted to the Secretary of the Interior for his review and decision. The action of the Secretary will be made known to you as soon as this office is informed of the same.

Respectfully,

Incl. B-36

Commissioner

DEPARTMENT OF THE INTERIOR,

LAND:
50348-1905.

OFFICE OF INDIAN AFFAIRS,

WASHINGTON.

August 12,1905.

The Honorable,

The Secretary of the Interior.

Sir:

I have the honor to enclose a report from the Commissioner to the Five Civilized Tribes, dated July 24, 1905, transmitting the record of the consolidated applications for enrollment as Cherokee Freedmen by Martha Albert for herself and her minor children, Elijah and Ida Albert; by Robert Barnes for himself; by Lula Knalls for herself and her minor children, Sarah French and Fred M. Knalls; by Nancy Berkum for herself and her minor children, Annie and Walter Berkum; by Henry Albert for himself and his minor children, Harry, Raymond and Lewey Albert; by John Barnes for himself and minor children, Gussie A. and John A. Barnes; by Jerry Albert for himself; by Lillie White for herself and her minor children, Mattie, Nancy, and Amos White; by Charles McClain for his wife, Malinda McClain, and his minor children, Samuel, Ella, Christiana, Charles, Turner, Jennetta and Mattie McClain; by Frank Gardner for himself; by Joshua Barnes for himself; by Sarah Brown for herself and minor child, Maggie Williams; by Minnie Barnes for herself, and by George S. Bell for his wife, Maggie Bell, and his minor child, George L. Bell.

July 24, 1905, the Commission decided adversely to all the applicants.

The record shows that on January 11, 1904, the Commission rendered a decision denying these applicants, except Mattie McClain inadvertently omitted, and that on June 21, 1904, the decision was affirmed by the Department; that thereafter, on March 25, 1905 (I.T.D. 1532-1905) the Department reopened and remanded the case for further testimony and readjudication.

The record further shows that the applicant, Martha Albert and Jennie Barnes, deceased, were full sisters, and were born prior to the beginning of the war of the rebellion; that all the other applicants were born since the beginning of the war, are lineal descendants of the applicant, Martha Albert and Jennie Barnes, deceased, and possess no rights to enrollment other than as such descendants.

It is further shown that the applicant, Martha Albert and Jennie Barnes, deceased, were neither the wives of a Cherokee citizen, nor free colored persons residing in the Cherokee country at the beginning of the war of the rebellion, and that they did not return to the Cherokee Nation on or before February 11, 1867.

Excepting the Wallace and Kern-Clifton, none of the applicants is identified on any roll of the Cherokee Nation.

In view of the record the approval of the Commission's decision adverse to all of the applicants is recommended.

Very respectfully,
C. F. Larrabee,
Acting Commissioner.

M.M.M.
W.

-COPY-  S.R.

DEPARTMENT OF THE INTERIOR, LLB

WASHINGTON,

D.C. 22958.
I.T.D. 4758-1904.
1333-1905.
6760- "
10880- "
L.R.S.

June 2, 1906.

Commissioner to the Five Civilized Tribes,

Muskogee, Indian Territory.

Sir:

July 24, 1905, you transmitted the remanded record with your readjudication in the matter of the consolidated applications for the enrollment of Martha Albert et al. as Cherokee freedmen, including your decision of same date, adverse to all the applicants.

August 12, 1905, the Acting Commissioner to Indian Affairs reporting thereon, recommended that your decision dated July 24, 1905, adverse to all the applicants named in his said letter, be approved. A copy of his letter, including the names of applicants affected by this decision, is inclosed.

The Department concurs in the recommendation made and your decision dated July 24, 1905, denying the application for the enrollment of Martha Albert and others named in Indian Office letter of August 12, 1905, is hereby affirmed.

A motion for review of said decision filed with the Department on September 7, 1905, by Messrs. Rice & Ridgely and

McGowan, Serven & Mahon, attorneys for moving parties therein, is hereby denied.

Respectfully,

Jesse H. Wilson,

Assistant Secretary.

1 inclosure.

REFER IN REPLY TO THE FOLLOWING:
Cherokee Freedman
R 426

DEPARTMENT OF THE INTERIOR.
COMMISSIONER TO THE FIVE CIVILIZED TRIBES.

Muskogee, Indian Territory, June 15, 1906.

Malinda McLain,
Dora, Arkansas.

Dear Madam:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting, among others, your application for the enrollment of yourself and children as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion for review of your case filed September 7, 1905, is denied.

Respectfully,

Commissioner.

MMP

COPY.

Cherokee Freedmen
R 413

Muskogee, Indian Territory, June 15, 1906.

Blue & Bulger,
Attorneys for Martha Albert,
Baxter Springs, Kansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that the motion filed by you September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

SIGNED.
Tams Bixby.
Commissioner.

Incl.P-17
MMP

COPY.

Cherokee Freedman
R 418

Muskogee, Indian Territory, June 15, 1906.

Weal & London,

Attorneys for Martha Albert,

Ft. Smith, Arkansas.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED)

Tams Bixby.
Commissioner.

Incl.P-15
MMP

COPY

Cherokee Freedman R 418

Muskogee, Indian Territory, June 15, 1906.

Bell, Hastings & Davenport,
Attorneys for Cherokee Nation,
Muskogee, Indian Territory.

Gentlemen:

You are hereby advised that the decision of the Commissioner to the Five Civilized Tribes dated July 24, 1905, rejecting the applications of Martha Albert et al, for enrollment as Cherokee freedmen, was affirmed by the Secretary of the Interior June 2, 1906, and that a motion filed September 7, 1905, for a review of said case is denied.

For your information there is enclosed herewith a copy of Departmental decision referred to.

Respectfully,

(SIGNED)

Tams Bixby,
Commissioner.

Incl.P-16
RMP

Department of the Interior.
Commissioner to the Five Civilized Tribes,
MUSKOGEE, IND. TER.

Returned to writer-no claim
No one here in this name

MUSKOGEE
JUN 18
5-PM
19

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE $300

DORA
JUN
18
1908
ARK.

Malinda McLain,

Dora, Arkansas.

21-42

END
OF
REEL





